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PRINCIPLES

OF

PUBLIC REVENUE,

WITH

A SHORT ABSTRACT OF THE REVENUE LAWS

IN THE

BENGAL PRESIDENCY.

By F. BOUTROS,

PRINCIPAL OF THE DELHI COLLEGE.

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PREFACE.

THE following extract from the Edinburgh Review (No. 146) will explain the object of the present work, which, although chiefly intended for the pupils of the Government Colleges, may however, it is hoped, in the absence of any official, or in fact any other, publication of the same nature, supply in some degree the desideratum alluded to by the Reviewer.*

"At present not only Anglo-Indians, but the natives of the land, are almost as ignorant of the principles which govern the conduct of their rulers in the domestic matters of the land revenue as in their foreign political relations."

"Under the circumstances of India it is the duty of the Government to provide without delay for the publication, in a popular form, of a body of practical information upon all the points that we have alluded to. Men earnestly engaged in business have not time to enter upon a study of the crude and undigested mass of the Revenue Regulations, from which so few even of the ablest public servants can form a scheme of administration consistent enough to satisfy their own understandings."†

The *abstracts* of the Law of Revenue in the following pages have mostly been prepared from Mr. Marshman's Revenue Regulations.

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* A translation of this work into Hindustany will be immediately prepared, and will complete the series of elementary Anglo-Indian Law Books translated by the native teachers of the Delhi College. It will be useful as a supplement to the translation of the Elements of Political Economy which has already been printed at Delhi.

† Edinburgh Review, January, 1841, No. 146.

Where several Regulations are quoted one above the other as

Reg. „ „ „
Ben. „ „ „
Ced. Pro. „ „

the former relates to Bengal, Behar and Orissa, the second to Benarés, and the third to the Ceded (and Conquered) Provinces, that is, generally Ghazeepore, Goruckpore, and the rest of the Agra Presidency, not including the Province of Benares.

The laws are in most respects the same for Bengal and the Upper Provinces, except with regard to Settlements, Customs and Salt. The chief differences will be noticed in the proper places; and as the main purpose of this treatise is to explain the *principles* of the Government Revenue, it has not been deemed advisable to enter into the details and the technicalities of the law, a course which would entirely change the nature of the work.

The laws relating to the Land Revenue being of more general importance than those which have reference only to other taxes, the former have been explained at much greater length than the latter, and the explanations given may not perhaps be without *practical* utility for some of those who have not made a special study of the Revenue laws of the Indian Government; and may, besides, serve as an *introduction to* such a study.

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PRINCIPLES

OF

PUBLIC REVENUE.

INTRODUCTION.

Necessity of a Government Revenue. Different kinds of Revenue.

EVERY Government must have a revenue. The administration of justice between individuals, the keeping up of a large and well organized police force, with Magistrates and other officers, for the protection of life and property against robbers, thieves, &c. and the entertaining of an army large enough to defend the state against all foreign enemies likely to attack it, are state expenses, the necessary nature of which is obvious to all and for which some regular provision must be made.

Expenses of Government.

Besides the above, a few other charges have to be provided for. Every enlightened Government incurs expenses for the encouragement of education, for the promotion of the Arts and Sciences, the repairs of roads and bridges, the building of hospitals for the sick, &c. &c. The support of a religious establishment is also generally held to be a legitimate expense of Government. Government has of course no right to interfere with the religious opinions of its subjects so far as regards the relation of man to his Maker, but in so much as religious opinions are considered favourable to the practice of morality, it clearly follows that it cannot be a matter of indifference whether proper establishments are entertained or not to keep up the religious spirit of

the people, and direct it towards an enlightened practice of the moral duties.*

The above are only the *ordinary* expenses of Government, but under some peculiar circumstances, such as a year of famine, some very considerable public work, a long and expensive war, *extraordinary* charges have to be incurred for which special resources must be found. This is provided for generally, in the most civilized countries, by borrowing from capitalists, to whom an advantageous rate of interest is paid for their money, until the Government finds it convenient to repay them. In India, when the Government requires a loan, the conditions on which it is proposed to contract it, are published for general information, and the Collectors are authorized to receive the money which the capitalists of each district are willing to lend on the conditions stated. A Government which should not have the confidence of the people could not of course obtain any money in that manner; but where the good faith and permanency of the Government are not doubted, this mode of placing funds is considered by capitalists surer than almost any other, since in fact the whole country is, as it were, mortgaged to the creditors to the amount of the loan received from them. Besides, the ownership of the sums lent to Government, has the great advantage of being *readily* transferable from one individual to another. If a man has Government promissory notes in his possession, he can always exchange them for cash in the bazar, sometimes at a premium and sometimes at a discount according to circumstances, but much more frequently at a premium on the sum originally lent, if the Government has the confidence of the people and if the peace of the state be not materially disturbed at the time. Thus it is found that Government can generally borrow at a much lower rate of interest than any private individual. The payment of the interest of those loans, and an annual saving with which to repay the capital in a certain lapse of

Government Loans.

* This is a question which we have not to examine here. The ground on which the above argument proceeds is undeniable, but it is doubtful whether the interference of Government with the religion of its subjects is the best means to attain the end in view.

time, must be provided for out of the ordinary income or from any new source of revenue.

Different sources of Revenue.

The revenue of Government is derived from several sources which are not always the same in different countries. The most proper sources of revenue are those which least interfere with the good morals, instruction and necessaries of the people, and which admit of easy and cheap collection. All taxes are an evil, but it is one which cannot altogether be dispensed with; it is the price which must be paid for security of life and property. Although taxes are necessary, some peculiar taxes may be more or less objectionable. Thus a tax levied by means of lotteries or on gambling houses, is particularly to be deprecated if it leads the Government to encourage a spirit of gambling, than which nothing can be more opposed to industry and economy. A tax on paper and books is in itself objectionable since it is in fact a tax on instruction; those who wish for books having in consequence of the tax to pay a higher price for them than they would otherwise have to do. A tax on necessaries, when first imposed, falls very heavily on the poor, and ultimately, by leading to an increase of wages, adds to the cost of every commodity, and thus places the country under positive disadvantages in its commercial competition with other countries. It produces besides a spirit of discontent in the lower classes to whom it has an appearance of great injustice. If the collection of a tax be particularly troublesome to the people and also very expensive, it is of course so far objectionable. When the Government require a revenue of one hundred rupees, if the collection of that sum cost twenty rupees, it is clear that the people have to pay a hundred and twenty instead of a hundred rupees. It would therefore be preferable to devise if possible some other mode of levying the same amount at a cheaper rate, so that, for instance, the people, instead of having to pay a hundred and twenty, would have to pay only a hundred and five rupees, the charges of collection amounting to *five* instead of *twenty* per cent.

Direct and indirect Taxes.

Taxes are sometimes divided into *direct* and *indirect* taxes. Direct taxes are those which are collected directly from the tax payers: as for instance, the tax on land. Indirect taxes are those which are collected

from persons who only advance the amount, and are afterwards re-imbursed by the community who often pay the tax without suspecting it. This is the case, as will be seen afterwards, with duties on imported goods and some other duties. The merchant who imports the goods pays the duty, but the price of the goods is increased in consequence, and thus those who purchase them re-imburse him his advance of that duty.

The only direct tax in India, the Land tax, is the only one which is *fixed* as to its amount. This amount can never be increased at all in the Lower Provinces or in Benares, and in the Upper Provinces it has lately been determined for thirty years. All other taxes are, *legally* speaking, liable to any increase which the Government may please to demand, but in inquiring into the principles of each tax we shall see that in point of fact the power of Government is extremely limited in that respect, and that, without imposing a new tax, no material increase to the revenue can be expected except from the general improvement and increased prosperity of the country, so that here the interests of the people and those of the Government are perfectly identified.

Chief sources of Indian Revenue.

This work will be limited to an inquiry into the chief sources from which the Anglo-Indian Government draws its revenue. They are:

1. Land.
2. Abkaree.
3. Stamps.
4. Opium.
5. Salt.
6. Customs.
7. Miscellaneous—1. Judicial fines. 2. Post Office. 3. Mint, &c.

As it may be interesting to see the sums recorded under the principal heads of the receipts and expenses of Government, the following table, which shows the Receipts and Disbursements of the Bengal Presidency in 1839-40, has been extracted from the Bengal and Agra Guide and Gazetteer. The whole interest of the Public Debt, all the

expenses of Political Establishments, and apparently part of the army in the Western Provinces, are charged to the Bengal accounts.*

	Receipts. *Rs.*	Expenses. *Rs.*
Political Establishments,	———	7,344,432
Land Revenue,	34,696,545	4,636,979
Abkaree,	2,958,434	———
Stamps,	2,108,517	119,710
Opium,	7,627,491	3,732,570
Salt,	18,870,079	3,859,534
Customs,	4,103,298	461,634
Judicial Receipts,	743,899	6,701,063
Mint,	489,423	301,581
Post Office,	562,263	491,472
Tributes,	2,211,008	224,739
Interest,	553,098	10,355,029

The relative Receipts and Charges of the four Presidencies were in 1839-40:

		Receipts. *Rs.*	Expenses. *Rs.*
Bengal.	Civil,	77,853,011	45,567,979
	Military,	755,952	38,972,799
		78,608,963	84,540,778
Agra.	Civil,	49,268,926	20,657,309
	Military,	54,403	1,532,056
		49,323,329	22,189,365
Madras.	Civil,	51,118,861	20,923,739
	Military,	974,962	27,859,993
		52,093,823	48,783,732
Bombay.	Civil,	24,556,734	17,299,388
	Military,	270,282	12,099,367
		24,827,016	29,398,755
Grand total,		204,853,151	184,012,630
Deduct Charges,		184,912,630	
Surplus,		19,940,521	

* For an account of the salaries paid to the chief Officers of Government, see note A. at the end of this Volume.

The surplus revenue is ultimately used to pay off part of the debt, and if there was no debt, the amount would be spent in improvements, or the taxes would be diminished, as it is not the policy of Government to keep a large sum of money in their treasury. They require to have always a few crores of rupees, perhaps half a dozen* crores, in hand to ensure the regularity of their payments, but beyond that they have little occasion for accumulating a large treasure.

The Chowkeedaree tax, the tax on ferries, and some others, are no part of the Government revenue, as their proceeds are to keep up a Chowkeedaree establishment in towns, ferries on the rivers, to repair the roads, &c.

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* Mr. Prinsep's India, 2d vol. p. 424.

CHAPTER I.

TAXES ON THE RENT OF LAND.

SECTION I.

General Remarks.

Rent of Land.

Land is the most proper and the most important source of Government revenue. In the infancy of society, when there are but few men in a large country and plenty of good land unoccupied, every man is allowed to cultivate new land wherever he likes without paying for it. No one has yet assumed a right of property over any land but that which he cultivates himself. When however the population increases, the whole of the best land or land of the first quality is gradually occupied, and a time comes when its produce is found insufficient to satisfy the demand for food. It then becomes necessary to have recourse to the cultivation of land of the second quality, and those who have not the good fortune to find themselves in possession of a portion of the best land, and have no better means of existence, are compelled to labour on the former. They of course labour at a disadvantage in comparison to those who occupy the best land; the latter perhaps with the same quantity of labour, are able to raise fifteen maunds of grain out of a beegah, whereas the former can only gather twelve on the same portion of their own ground. Thus, supposing one man with one pair of bullocks can cultivate five beegahs in the year, the man who cultivates the best land will be able in one year to produce seventy-five maunds, while the other man can only produce sixty maunds. This being the case, it may happen that the man who finds himself compelled to cultivate land of the second quality, will say to the other, "you have five beegahs of the best land, allow me to cultivate them and I will give you fifteen maunds of grain a year for it." In this case it is clear it would be all the same to him, since whether he cultivated the best land on this condition, or whether he cultivated the land of the second quality without paying for it, he would in either

case get sixty maunds of grain for the produce of his labour. The fifteen maunds of grain he would thus give to the first proprietor of the land would be the "rent" of that land.

But again, in the progress of population, it will happen that the whole of the land of the second quality will be occupied, and will, with the best lands, be found insufficient to satisfy the demand for food. In that case it will be necessary to have recourse to land of the third quality, which perhaps may not be able to yield, for each beegah, to the labour of one man and two bullocks, more than ten maunds of grain in a year. Some men however, who have neither lands of the first nor of the second quality, will be compelled to cultivate land of the third quality on those terms. But some of those whom the want of better lands and of other means of existence may thus compel to a disadvantageous cultivation, may, for some reason or other, find it more convenient to make an arrangement with the proprietors of the land of the first or the second quality, for the purpose of cultivating their land, on the condition of paying to them the difference between the produce of that land and that of the land of the third quality. The "rent" which would thus be paid would be of course five maunds per beegah to the proprietor of the land of the first quality, or two maunds to the proprietor of the land of the second quality.

The same reasoning might be continued longer to the land of 4th, 5th, 6th, and 7th qualities, but this is unnecessary. It is obvious that the rent of a certain portion of land, is precisely the difference between the productive power of that land and that of an equal portion of land of the worst quality which it is found necessary to cultivate in the country, and also that rent goes on increasing as population, or the difficulty of procuring food, increases; that is, as it is found necessary to have recourse to land more and more inferior in quality.*

* It may be that land as fertile as the land of the first quality, from its remoteness from the market where the produce is to be sold, or from some other disadvantageous circumstance, will rank only with the land of 2nd or 3rd quality as to the rent in *cash*. The *cash rent* of a landed estate is the neat income realized from it in cash by the proprietor, and includes both the "rent," and the interest of the capital laid out for the improvement of the estate.

Tax on Rent.

The tax of Government on land is only part of the rent, and, as rent is *generally*, with regard to the *original* proprietors, nothing but the result of circumstances over which they have no control, and is not owing to their superior labour or industry, it seems fair that they should be required to give part of that increasing fund for the Government expenses, which also go on increasing with the population. The tax on rent falls in reality only on the original proprietors, that is, those who began to cultivate land at a time when it bore no rent at all, or on those who are land owners at the time the tax is imposed. Those who have purchased lands since the fixed tax was imposed upon those lands, cannot properly be said to pay any part of it.

Suppose, for instance, that on a village, the *rent*, that is, the *clear income*, of which was forty years ago 500 Rupees, a tax of 300 Rupees was then levied by Government,* and that ten years after the proprietor, by name Rambux, sold his village to Sheopurshad; it is very clear that Sheopurshad knowing that he would have to pay a tax of 300 Rupees a year to Government, did not pay for the village so much as he would have done if that tax had not existed, that in fact, instead of buying an estate worth 500 Rupees a year, he knew very well he was purchasing one worth only 200, and he only paid in proportion. If an estate be worth ten times the annual income it produces, he paid 2000 instead of 5,000 Rupees. It was just the same for him as if the rent of the village had only been 200 Rupees, and there had been no tax to pay upon it. Thus he cannot complain of being obliged to pay a tax of 300 Rupees, since when he bought the estate he knew he would have to do that, and regulated accordingly the price he gave for it. He has no better claim to the remission of that tax than any other member of the community, who has rendered no special service to the state, has to a pension of the same amount.

The revenue which the Government derives from the land can,

* Under the Mogul Government the tax was not fixed as it is at present, and the Zemindars, instead of being actual proprietors of their lands, appear to have been then, with some exceptions, mere hereditary Collectors of revenue. They indeed received the rent, but had to account for it to the Government and were allowed only a small percentage on the amount.

strictly speaking, scarcely be called a *tax;* it is not a burden imposed on any particular part of the community. As explained above, it does not fall on the Zemindars, the Government having taken a share of the rent from time immemorial, and none of the present Zemindars (perhaps none of their ancestors) having become proprietors of their lands till after a tax was imposed on those lands.* It does not fall on the ryots, since if there was no land tax the Zemindars would not the less take from the ryots the whole rent of the land. The tax alluded to is not paid by the consumers, since it has obviously no tendency to increase the price of commodities, which must always be sufficient to remunerate the producers or else they will cease to produce them. With regard to agricultural produce, it is certain that the price must be such as to remunerate the cultivators of the worst species of land which the increase of population has brought under cultivation, or *that* land would not continue to be cultivated. The producers of grain under such circumstances would not be in the least bettered if no land tax had been imposed; they *could* not, and the Zemindars generally *would* not, sell, in that case, the produce of their lands at a cheaper rate than they do now: that rate would still be as it is now ultimately regulated by the cost of production, or at any particular time would still depend on the proportion between demand and supply.

The great point in a tax on land is that it should be *fixed*, and that it should not be *excessive*. If not altogether fixed, it should at least not be subject to much variation. Should the tax be periodically increased in proportion to the increased value of the land, it is clear the proprietor would have little or no interest in its improvement. Why should he dig wells, erect bunds, or plant trees, if the Government takes for itself all or the best part of the increase of produce which may thus be obtained from the land? Not only so, but at the time when the tax is to be revised, it is but too probable that

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* This of course does not apply to the holders of lands formerly rent free and which have since been resumed. Those persons were through the neglect of Government left for many years in the enjoyment of an income to which they had no right, and the tax since assessed on their lands has of course to be paid from that income. *Vide further Section II. No. 6.*

the proprietor, fearing it may be increased, will throw his land out of cultivation, or cultivate it imperfectly, so that when the assessing officer comes, he may from the appearance of the land, be led to believe it to be of very inferior quality and not capable of bearing a heavy assessment.

The tax on land appears to have existed in India under every Government, but it was formerly liable to be altered at the caprice of the ruler. Within the last 50 years, however, the tax in question has been made permanent in Bengal and Behar, that is, the British Government have pledged themselves that whatever value estates, thus assessed, may attain at any future period, no more than the amount of their present tax will ever be required from them. Thus the proprietors may lay out for the improvement of those estates as much money as they think will be repaid by an increase of produce, since whatever that increase may be will be theirs entirely.

The land revenue of Bengal and Behar was settled in perpetuity* in 1790, and that of Benares in 1795. But in the Upper Provinces, that is, in the lands ceded by the Nawab of Oude, or conquered from 1803 to 1806, the lands have not yet been permanently assessed. Most of them however have been assessed for the long period of 30 years, and it is not improbable the settlement will be made permanent at the rates agreed upon, or on terms not materially different. In these general remarks on land revenue it will thus be unnecessary to make any difference between Bengal and the Upper Provinces.

The Revenue Laws of British India relating to the tax on land, may be considered under three different heads which will form the subject of three different Sections. 1st. Assessment; 2nd. Realization of rent and of the land tax; 3rd. Division of Estates. But before explaining the manner in which the land tax is assessed and afterwards realized by Government, it will be necessary to give some account of the most common landed tenures in India.

* The settlement was at first made for ten years, but afterwards confirmed for ever.

SECTION II.

Landed Tenures.

From what has been stated above, of the mode in which a rent,* or retribution, comes to be paid for the privilege of cultivating certain lands, enjoying particular advantages over any other lands in the neighbourhood which may not yet have been appropriated, it will be perceived that the cultivator of the former description of lands, if not himself the proprietor of his field, may engage to give every year, for the privilege of cultivating it, a certain portion of its produce, or to pay a certain amount of rent. In this case, as well as in the case of his rate of payment being liable to vary from year to year, at the will of the proprietor, or according to fixed rules, or being altogether invariable, he will hold his land as *a Ryot;* his tenure will be a *Ryottee*† *tenure.*

If, instead of taking the land for a limited number of years, the tenant should, by some private arrangement, hold it for ever at a certain and fixed rate, so that he may underlet it, or part of it, to any other person, his tenure would be *Istemraree* or *Talookdaree.*

In the two above tenures, Ryottee and Istemraree or Talookdaree, the holder of the tenure is subordinate in some respect to the proprie-

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* In some cases the superiority of one piece of land over another, is due not merely to the nature of the land and the progress of society, but to the improvement of that land by labour. The return yielded by those improvements, is the interest of the capital invested in them, though it is usually included in the word *rent.* Such investments of capital belong generally to an advanced state of society when the produce of land has become very valuable.

† The word Ryot may be taken to mean *actual cultivator.* When his rate of payment is invariable, he is still called a ryot so long as he cultivates the land himself, and *Istemrardar* or *Talookdar* if he underlet it to others. The above is not the *only,* but it is *the most common* meaning in India of the word *ryot.*

tor of the land, or zemindar; and this mode of holding land is accordingly sometimes called *Under* Tenure, to distinguish it from the Original or *Zemindaree* Tenure.*

The *Zemindaree* or Original Tenure may however be modified in several ways. It may be that one man is sole proprietor of his land; or the land may belong to several persons who cultivate it together and share among themselves the whole produce, or let it out and share the rent paid for it; or it may be divided into several portions, each proprietor having a specific portion marked out, which alone belongs to him, which he may cultivate or let out as he likes, and on which a specific portion of the revenue payable to the Government by the whole Estate has been settled, his connexion with the other proprietors having in general reference only to their joint responsibility to Government for the revenue settled on the Original tenure. This kind of joint responsibility, whether the portion of each tenant be a measured and determined fraction of the whole, or consist of specific fields which, without any recorded proportional value to the whole, have by some private arrangement been made over to him, constitutes the *Putteedaree* or *Bhyachara* and *Mookudmee* Tenures.

The above Original Tenures may either pay part of the rent to Government, or from some particular cause may have been altogether exempted from doing so; in the latter case they are *Lakheraj* or *Maaffee* Tenures. A Tenure originally Ryottee may also have become Lakheraj, if at any time the Zemindar, with the authorization of Government, gave up for ever to the possessor of that tenure the right to claim any return for it.

The above Tenures, which are the tenures most usual in India, mix themselves up with each other in every possible way. To follow and explain all their modifications would be endless; it will be sufficient to examine separately: 1st. The Ryottee; 2nd. The Istemraree or Talookdaree; 3rd. The Zemindaree; 4th. The Bhyachara or Puttee-

* The Government itself may in some instances be the Zemindar or proprietor, to whom the fixed periodical retribution is paid by the Istemrardar.

daree; 5th. The Mookudmee; and 6th. The Lakheraj, Tenures. After that, any one may analyse the elements of the different kinds of mixed Tenures in India, and will easily understand them.

I. Ryottee Tenure.

The *Ryottee* tenure is that of the actual cultivator (Ryot) who holds his land on paying to the landlord (zemindar) a certain rent, which is either fixed and payable in cash, or varies according to the crop cultivated, or is paid in kind by a certain share of the produce. This description of tenure may be subdivided into two: 1st. that of the Tenant at will; 2ndly. that of the Permanent Tenant.

1st. The Tenant at will, Pykasht or Ghuer Maroossee Ryot, is as regards his tenure of the fields he cultivates, completely in the dependence of the Zemindar, who may, at the expiration of his pottah or engagement if he has one, otherwise at the end of the year after due notice, oust him and give his fields to another.

2nd. The Permanent Tenant, Khoodkasht,* Maroossee, Kudee-

* The difference between the Khoodkasht, Maroossee, Kudeemee or Chupperbund Ryots, appears to be merely nominal. The Governor General, in his Minute of the 26th September, 1832, paragraph 33, states indeed that the Maroossee and Khoodkasht Ryots, whom he places in the same class, are actual proprietors of their lands, but Reg. 8, 1793, Sect. 60, Cl. 2, declares that the rents of the Khoodkasht Ryots may be increased if below the Pergunnah Rates, or on a general measurement of the Pergunnah for the purpose of equalizing and correcting the assessment. It appears from the above and from Sect. 27 of Act 12 of 1841, (see Section III. of this work) that the rents of Khoodkasht and Maroossee Ryots are *fixed* in some parts of the country, and in others are *regulated on the Pergunnah Rates*. But the Regulations no where clearly determine what constitutes a Khoodkasht Ryot. It would appear however that from the moment a Ryot settles in a village, on an arrangement with the Zemindar which, although nominally for a fixed number of years, does not necessarily imply the continued right of the Zemindar to demand any increase of rent for his land, as in new lands for instance, the said ryot becomes entitled to the privileges of a Khoodkasht cultivator, cannot be ousted so long as he pays his Malgoozaree, and at the expiration of his engagement may demand a renewal of his Pottah at the rates of the Pergunnah. This is not however a settled question.

mee or Chupperbund Ryot, cultivates lands for which he pays to the Zemindar a certain amount of rent, which the latter cannot increase except under certain circumstances and according to fixed rules; and so long as the Permanent Tenant pays his dues he cannot be ousted. Even in case of non-payment of his rent, the Zemindar cannot resume the tenure till an arrear has been adjudged by a competent Court to be due from him.*

Some Permanent Tenants hold their lands at a fixed rent while others hold them at the Pergunnah Rates. This latter expression has not the same meaning as the former, because the Pergunnah Rates may change with time and circumstances. If, for instance, a Zemindar should cut a canal through his estate, or dig a great number of wells for irrigation, (supposing his estate to contain one or more Pergunnahs and not to be all occupied by Khoodkasht Ryots) there can be no doubt that the Pergunnah Rates would rise, since the productive power of the land in that estate would increase. Under the law of the country this increase in the value of the land would, except under special cases of tenures at fixed rates, be for the benefit of the Zemindar, to whom such an advantage is secured in hope that it will induce him to use his best exertions to improve his estate. Although the *direct* effect of such improvements be to benefit the Zemindar and him only, it is easily perceived that they tend to promote the prosperity of the whole country. If a Zemindar becomes richer through the improvement of his lands, he will be able to spend more than he did before, he will consequently employ more men in supplying himself with clothes, in building houses, planting trees, digging new wells or cutting new canals, &c. All this increased demand for labour must, of course, tend to produce a rise of wages, and therefore improve the condition of the labouring class in the community, besides that the importations of foreign goods required by the prosperous Zemindar, and the exportation of country produce which an increased production must lead to, will add to the revenue of Government derived from the Customs.†

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* Reg. LI. 1795, Sect. 10. S. D. A. Circular, 7th March, 1828.

† Ryottee holdings at the Pergunnah rates are hereditary, but not transferable by sale or gift, though nearly similar to all landed tenures in France, where

Ryots' *Pottahs*. (N. B. See also Zemindaree Tenures.)

All pottahs or leases given in good faith by the Zemindar to all descriptions of Ryots, remain good against his successors or against a private purchaser, or a purchaser at a public sale in satisfaction of a decree, who are equally bound by them as the Zemindar himself, since by succession, or by the purchases alluded to, no more right can pass to the new proprietor than belonged to the former one. But in cases of sales for arrears of revenue, all Pottahs of the former proprietor, subsequent to the permanent settlement of the estate, are generally null and void with regard to the future, unless they are confirmed by the purchaser.* The reason of the difference is this. The Government are considered to have a lien or mortgage on the soil, which the Zemindar can by no act of his alienate. If from ignorance or a natural feeling of generosity, or out of private friendship for some individuals, the Zemindar gives them Pottahs on very favourable terms, those Pottahs, if binding on Government, would endanger the public revenue. Suppose, for instance, that an estate worth 600 Rupees a year, when cultivated by Ryots who pay a rent equal to the usual rates of the pergunnah, has been assessed by Government at three hundred and fifty rupees per annum. This will leave to the Zemindar in average years 250 Rupees for his tenure, and this surplus constituting his profit or income, is at the same time a kind of insurance fund to Government, who expect to have their 350 Rupees, whether the estate produces to the Zemindar 800 Rupees, as it may do in a good season, or only 400 Rupees if the season be unfavourable. If from private friendship or any other cause, the Zemindar gives out his lands to his Ryots on an aggregate rent of 350 Rupees, or very little above that, or per-

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where no permanent settlement can strictly be said to have taken place. There the income realizable from each estate has been estimated at a certain sum out of which a percentage is taken as a tax, and that percentage is greater or less according to the wants of the State. Thus the element of the change is not in that case a difference in the value of the land, as in the case of the Ryottee Tenures alluded to, though this may also be, if a new survey and estimate should be ordered by Government after a certain number of years, against which proceeding no pledge has been given to the landholders.

* See Sect. IV. part 2d —Act XII. of 1841, Sect 27.

haps less, what security would there be for the Government revenue if such engagements were to be held valid? If in a bad season a Ryot runs away or is unable to pay, who will make good his malgoozaree?* The Zemindar, who had voluntarily entered into an engagement to bear all such losses in consideration of the land granted to him, has incapacitated himself from fulfilling his engagement by giving up to his Ryots all the profits to which he was entitled, and the Government would in vain put up for sale in satisfaction of arrears a Zemindaree tenure worth nothing at all to the proprietor.

It is stated above, that a sale for arrears annuls generally all the engagements of the former proprietor with his Ryots subsequent to the permanent settlement, but this does not mean that the new proprietor is at liberty to oust whomever he likes. He cannot oust any of the Khoodkasht or Maroossee Ryots so long as they continue to pay their rents, but if those rents are below the pergunnah rates, he may raise them unless they were Istemrar or Moocurreree (fixed and settled) more than 12 years before the permanent settlement, or existed at the permanent settlement and are not liable to increase on the grounds stated in Sect. 51, Reg. 8, of 1793,† or under the Regulations, or were settled fairly and in good faith. (See Zemindaree Tenures and Act 12 of 1841, Sect. 27 to 30.—Section IV. Part 2nd of this Chapter.)

The great power which it has been thus thought necessary to give to the new purchaser, with regard to ryots not of the above description, is not in reality so much liable to abuse as it appears, though it may produce oppression in some peculiar cases, because generally the new Zemindar will of course not ask from a good ryot more than what is

* The *gross jumma* of a Village is the total sum payable by the Ryots to the Zemindar. The *net jumma* or rent is that same sum diminished by the whole expense of collecting it, by losses, deaths, &c. *Malgoozaree* is the amount payable by the Ryot to the Zemindar, or by the Zemindar to the Government.

† That is, on proof given that, according to the conditions of the tenure or the special custom of the district, or in consequence of abatements of jumma having been received, an increase of rent is demandable.

fairly due for his land at the pergunnah rates, since if he did so he would ruin or drive away the ryot and this would ultimately be to him an actual loss.

II. Dependent Talookdars.

Dependent Talookdars, Moocurrereedars, Istemrardars* are persons who hold lands from a Zemindar at fixed rates in perpetuity. They can transfer their tenures by sale or gift or in any way they like, the new proprietors succeeding to all the rights and obligations of their predecessors. A Dependent Talook cannot be divided without the sanction of the Zemindar; at least if this be done, each portion continues to be liable or mortgaged for the whole of the revenue payable by the Talook, so that in case the Talook should be sold for arrears, the share of those of the shareholders who had paid up their portion of revenue, would be sold with the rest and forfeited. A Talookdar who does not pay his Malgoozaree cannot be ousted by the Zemindar, but his tenure is on the application of the latter liable to sale by the Collector. Reg. VIII. 1819, Sect. 8, Cl. 2. and Reg. VII. 1832, Sect. 16, Cl. 2.

Sales of Dependent Talooks for arrears.

If the Talook be sold for arrears, the excess proceeds of the sale, after paying up the balance due, belong to the Talookdar. Reg. VIII. 1819, Sect. 3.

If a Talook falls into arrears, a Zemindar should, on the 1st Bysakh, present a petition both to the Judge and to the Collector, stating the balances due for the preceding year; that account should then be stuck up in the Cutcherry, with a notification that if the arrears be not paid before the 1st Jeyt following, the tenure will be brought to sale. Reg. VIII. 1819, Sect. 8.

Zemindars may present a similar petition stating the balances due up to the end of Assin, and a similar notification, as above, is then to be given that the tenure will be sold on the 1st of Aughun, if the arrear be not adjusted in the mean time. Ditto, Sect. 8.

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* *Independent Talookdars* paying their revenue direct to Government, are to all intents and purposes *Zemindars*.

Sales of transferable under-tenures in Putnee Talooks are, after a summary suit, to be conducted as the above. Ditto, Sect. 16.

Such sales must be made by the Collector, or Deputy Collector, subject to an appeal* to the Commissioner on the irrelevancy of the regulation, as in other cases of a summary nature (under Reg. VIII. 1831, Sect. 4.) Reg. VII. 1832, Sect. 16.

Talooks sold for arrears, are sold free of all incumbrances by the former proprietor, unless he possessed some special right of making such incumbrances; that is, no private transfer, engagement, or mortgage, bars the right of the Zemindar to hold the tenure in the state it was created by him, answerable for the arrears, unless such transfer, engagement or mortgage, took place with his sanction, or under some right conveyed by him. Reg. VIII. 1819, Sect. 11.

Khoodkasht, resident or hereditary ryots, cannot be ejected by purchasers at auction, and their engagements cannot be cancelled, except on proof being given in a regular suit, that a higher rate would have been demandable at the time such engagements were contracted. Ditto.

Zemindars cannot refuse registering alienations of Putnee (Talookdaree) tenures, but are entitled on so doing to a fee of 2 Rs. per cent. on the annual rent. Zemindars may demand also security equal to half the jumma for the payment of the balances due. Ditto, Sect. 5.

The Talookdar holding immediately from the Zemindar is, in some parts of the country, called a *Putnee* Talookdar. Under Talooks or lands at a perpetual fixed rent, which the latter may have alienated from his tenure, are situated with regard to him exactly as he is with regard to the Zemindar. Those undertenures are called *Durputnee* Talooks.

A Talook and other undertenures are, in general, liable, with the remaining part of the Zemindary, to be sold for the arrears of the

* All such sales may be reversed by the Civil Courts in a regular suit.

Zemindary, and so are a *Durputnee* Talook and the inferior tenures in it, for the arrears of the Talook. Reg. VIII. 1819, Sects. 2 and 3. Act 12 of 1841, Sect. 27 to 30. (See Part 2nd, Section IV. of this Chapter.)

Durputnee Talookdars are authorized to stay the sale for arrears of the Talook from which they depend, by paying themselves the balance due ; and if they be not themselves in balance to the Talookdar, may apply to be put in possession of the tenure of the defaulter until they have repaid themselves, capital and interest, the sum thus advanced by them. Reg. VIII. 1819, Sect. 13, Cl. 4.

In case the sale takes place for arrears, Durputnee Talookdars, not themselves in balance, may sue the late proprietor of the Putnee Talook for damages for the loss of their tenure. Do. Sect. 17, Cl. 5 and 6.

III. Zemindaree Tenure.

This kind of tenure is held directly from Government, and Zemindars pay directly to the Government officers the amount of revenue assessed on their land. Zemindars can dispose of their lands as they like ; every part of the estate however, when that estate was settled as a *whole*, remaining always pledged for the due payment of the Government revenue assessed upon it. If a Zemindar wants to alienate any portion of his estate, so that that portion may no longer remain jointly with the rest pledged for the whole jumma, he must apply to the Collector for a division of lands, or *batwarrah*, as will be explained more at length in Section V. of this work.

Zemindars, as well as Talookdars, farmers or other holders of land not cultivated by themselves, are bound to give leases, or pottahs,* to their Ryots, and any excess claimed from the Ryots above the rates of those pottahs, should be considered as an extortion, the repayment of which may be ordered by the Courts with a penalty of double the amount.† Reg. XXX. 1803, Sect. 2.

* A *pottah* is the engagement of a Zemindar to a Ryot. The counterpart of that document, or engagement of the Ryot to the Zemindar, is called a *kubooleeut*.

† This is not applicable to the Upper Provinces where the Jummabundy, or

Khoodkasht or Chupperbund Ryots are entitled to have their pottahs renewed, at the expiration of the period for which they were first granted, at the pergunnah rates, which, in case of dispute, are determined in the Civil Court. Ditto, Sect. 9 and 10.

The Ryots whose rents have been settled, may demand pottahs, and the Zemindar or farmer refusing to give them is liable to fine. Reg. VIII. 1793, Sect. 59.

Ryots, whose rents have been settled, refusing to take pottahs, the Zemindar may notify his intention to give such documents to all applicants, and this afterwards entitles him to levy his rents accordingly. Reg. IV. 1794, Sect. 5.*

The rent to be paid by Ryots should be specifically stated in the pottah. Reg. VIII. 1793, Sect. 55.

All former impositions distinct from the Assul, or Original, jumma, such as Abwabs, &c. should be consolidated with it in every pottah, and landholders imposing any other similar cesses on their ryots are liable to a penalty equal to three times the amount levied. Reg. VIII. 1793, Sect. 54 and 55.—Ced. Pro. Reg. XXX. 1803, Sect. 5.

MODIFICATIONS IN A ZEMINDAREE TENURE.

The Tenure of a Zemindar may be disturbed by loss of land through the action of rivers, or in case of appropriation of the whole or part of his land for public purposes. These cases, and that of new accretions, are provided for by the following rules.

Loss and Accretion of land.

Cases of loss and accretion of land by the action of rivers (Shekust Pywust) are decided by immemorial usage, where such an usage appears clearly established. Reg. XI. 1825, Sect. 2.

Where there may be no fixed local usage, if the land be gained

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or record of rents agreed upon between the Zemindar and Ryots, stands for the pottah.

* On the subject of the relations of landlord and tenant see further Section IV. of this Chapter.

by gradual accession it is considered as an addition to the tenure of the person to whose land or estate it is thus annexed, whether that land or estate be held by a Zemindar or any under-tenant. Such accession however does not convey to the holder of the land thus obtained, a right of property beyond that possessed by him in the land to which it is annexed, and does not in any case exempt him from the payment to Government of any assessment to which the new land may be liable under the Regulations. If the accession be made to an under-tenure, whether that of a Khoodkasht ryot or Istemrardar, the under-tenant, if liable by his engagement or by established usage to an increase of rent for alluvion, is not exempt from it in consequence of this Regulation. Ditto, Sect. 3 and 4, Cl. 1.

The above rule is not applicable to cases in which, a river, by a sudden change in its course, may intersect an estate, or separate a considerable piece of land from an estate and join it to another, without destroying the identity and preventing the recognition of the land. In such cases the land remains the property of its original owner. Cl. 2.

When a *Chur*, or island, is thrown up in a large and navigable river (the bed of which is not the property of an individual), or in the sea, and the channel between such island and the shore is not fordable, the land is at the disposal of Government. But if the channel be fordable at any season of the year, the new land is considered as an accession to the tenure, or tenures, of the persons whose estates are contiguous to it, subject to the provisions of Clause 1st. Cl. 3.

In cases in which, after the conclusion of the settlement, the rivers carry away so much of the ground included in the engagements of any Zemindar or farmer, as to disable him from paying the stipulated revenue; the Collector, after minute inquiry reports the circumstances to the Board of Revenue, through whom the orders of the Governor General in Council are issued to the Collector, for affording such relief to the parties concerned as may appear necessary. Reg. V. 1795, Sect. 35.

The Board may grant suspensions of revenue whenever it may ap-

pear indispensably necessary, reporting the same without delay to the Governor General in Council. But they are not to grant any suspensions beyond the current year. Reg. II. 1793, Sect. 42.

Appropriation of land for public purposes.

Whenever it may appear necessary, or expedient, to appropriate any land for the construction of a public road, canal, building, jail, or for some other public purpose, and the land cannot be purchased by private bargain, either because the owner objects to the disposal of his land, or asks an exorbitant price for it, the officer entrusted with such public work, or any other officer whom the Governor General in Council may direct, will submit through the proper authorities the whole of the circumstances for the information of Government, and if the Governor General in Council, after duly considering the objections urged and the demands made, should still deem it proper that the land in question should be appropriated, he will order the election of arbitrators to ascertain and determine the full value of the property. Reg. I. 1824, Sect. 2 and 3.

Two arbitrators will then be nominated on the part of Government, and two on the part of the owner of the land, and the four arbitrators will nominate an umpire to act with them, and in all cases the majority will determine the award. Sect. 4.

IV. Bhyachara or Putteedaree Tenures.

"The Bhyachara or Putteedaree tenures (which are different names for nearly the same thing in different parts of the country) are those where the whole of the land is occupied by the proprietary brotherhood, and revenue assessed by rate or *baach*, and where, if there be non-proprietary cultivators, they are not responsible to the general body, but are introduced by some individual sharer on his own ground, and pay him rent for the land on which he pays by rate or *baach*." Circular Order of the Sudder Board of Revenue, North Western Provinces. No. 1, para. 199.

"There are also various ways of assessing the rate, as on ploughs, on the actual cultivation of each year, on the amount of cultivation ascertained at the settlement, &c." Do. para. 201.

In some of the above tenures the whole of the land is divided into distinct portions, each of which is assigned to a separate sharer; in others, part only of the tenure is so divided, another part being held in joint-tenancy by the whole community.

This kind of tenure is common in the Upper Provinces. In other parts of the country a tenure which is also sometimes called *Putteedaree*, consists of an estate belonging to a certain number of individuals who have each a proportional share in the whole of the estate, that is, one or two or three annas in the rupee, but who have no exclusive right to any special part of the land.

V. Mokudmee Tenures.*

"The term Mokuddum simply implies a head man or leader, and its technical application in a fixed sense is simply Manager; in this latter sense it is applied to the principal person of a community, or party, whether that body consists of persons exercising plenary proprietary rights, or modified proprietary rights, or claiming no right of a proprietary nature at all." C. O. of the Sudder Board, N. W. P. No. 1, para. 208.

"Thus the representatives of the proprietary communities near Dehli are called Mokuddums. The heads of the cultivating communities in Thakoordwara are called Mokuddums, and the term is also applied to a common head cultivator appointed by a Zemindar or Talookdar to superintend the cultivation of any given mouzah, or number of mouzahs." Para. 209.

In Mokuddum tenures "the property in the soil ..... is vested in the whole community. The Mokuddum, or Mokuddums, are the one or more selected from them or by them, or with their consent, to manage their concerns as the organ of the general will, and to transact their business with Government." Para. 219.

* There are properly speaking no Mokudmee land tenures, these are merely Bhyachara or Putteedaree communities under a peculiar form of government. The Mokuddums are only *elective* Superintendents or managers, although their office is often allowed to pass from father to son.

"The proper way of dealing with all such tenures is that which is laid down in the instructions above given for byachara or putteedaree tenures." Para. 220.

VI. Rent free Tenures.

Under the dominion of the Emperors of Dehli, it had been customary both for the Emperor, and, in certain circumstances, some of his officers, or the Zemindars, to grant lands free of any charge, or at a nominal rent, to favourites, or other persons whom it was intended to reward, or on condition of certain future services, as military service, police duties, &c. or to religious establishments for religious or charitable purposes.

The grants of subordinate officers, not specially authorized to make them, were, however, at all times illegal, and so were those of the Zemindars, the Government having a first lien on the land which no Zemindar could alienate. The grants of the sovereign himself, resumable by his successor, were besides in general only for the life of the grantee. Both from the neglect of the supreme authority in resuming lapsed tenures, and from the forgery of sunnuds, a large portion of the lands in Bengal and Behar were found, in the first years of the Company's Government, to be thus held free from assessment. The Government by its laws protested against those tenures, but to investigate the validity of each, great care and labour were required, and the matter was in great measure neglected till within the last few years. In 1828, however, special officers were appointed for the purpose, and very extensive resumptions have since been made to the great advantage of the Exchequer.

These measures of resumption have no doubt fallen very severely on individuals who had inherited the lands in their possession from their ancestors, or purchased them from the former proprietors, and who from the great remissness which Government had shown in enforcing its rights to them, had been led to expect that they would be for ever left in their free possession and enjoyment. It is indeed a matter of great regret that Government should have given too much reason for such expectations, but the abstract justice of the principle on which the resumption law was based cannot be denied.

The necessary expenses of Government amount to a sum which it is not in its power to decrease beyond a certain limit;* means must be provided to meet those expenses, and if the usual taxes be not sufficient for that purpose, some other way must be found to obtain the surplus from the people of India. Thus if the lands free of assessment had not been resumed from those who, under the law of the country, had no right to them, the latter would have remained in possession of a portion of revenue the amount of which must have been paid directly or indirectly by their countrymen.

To soften the blow to the possessors of free tenures, they have in general been allowed to remain in possession on terms more favourable than are granted in ordinary settlements. Instead of 65 or 70 per cent. being assessed on those lands, the Government has fixed the assessment at 50 per cent. of the gross jumma, and those who were left destitute have been held entitled to a pension for life.

To complete this general account of tenures, a Table of the denomination of the various rent free grants, or free gifts, in this country, is here subjoined. It may be useful to know the legal meaning of those terms as they frequently occur in public documents relative to the Government revenue.

Table.

Altumgha. Mudud Mash.	*Badshahee Tenures*, or Royal grants, hereditary, if so specified in the grant, or if no grant be forthcoming and the tenure be however held valid.	Transferable.
Ayma. Jagheer.†	Not hereditary unless so specified in the grant.	Not Transferable.

* It has been assumed throughout the present work that the expenses of Government are no more than is absolutely necessary for public purposes. If it be shown that any of those expenses could, consistently with the welfare of the people and with good faith, be reduced, it is obvious that this would supply a valid objection against the *total amount* of taxes levied, rather than against any particular tax.

† This is a tenure granted generally for certain military services, though sometimes also without conditions. The other names in the list sufficiently explain

Maaffee. Khairatee. Nankar. Enam. Fakeeran. Neez jote. Kharij jumma.	*Hookamee Tenures*—Zemindars', or Amils', grants, not hereditary or transferable unless so specified in the grant, or it be the custom of the country. They become hereditary and transferable if the tenure be declared valid.
Cheragee. Neazimam. Wukf. Nuzur Durgha. Peeran.	Neither transferable nor assessable. Hereditary if the heir be not disqualified by irreligion, &c. In this latter case another heir to be appointed.
Dewuttur. Shewuttur.	Hereditary if so specified in the Sunnud.*
Brahmuttur. Bishun preet.	Hereditary and alienable by its nature.
Kishenarpun. Gooroo Dukhyana.	Like Dewuttur.

Tawfeers, Lands omitted in the permanent settlement or new accretions. Resumable.†

SECTION III.

Assessment.‡

It has been assumed throughout the preceding Section that the Government had imposed a tax on the land. We must now enquire how the amount of this tax is determined.

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explain the object of each grant where that object is definite, but the purpose of a grant may often have been quite different from what its name would seem to indicate. Altumgha, Kharij jumma, Maaffee, Wukf, are general terms; neezjote is the land cultivated by the Zemindar himself; Enam, nankar, are grants for past services; Mudud maash, Khairatee, Fakeeran, are eleemosynary grants; the rest are of a religious nature.

* A Sunnud is a title deed of any kind.

† For further details relating to Lackheraj tenures see the article "Collector" in Chapter II.

‡ See notes B & C at the end of this Volume for further particulars about assessment.

When all the valuable lands of a country have been appropriated, and the rent generally paid for them is such as to make it a proper object of Government Revenue, the amount of the tax may be determined in several ways. 1st. The Government may send its own officers throughout the country to ascertain the value of each cultivator's tenure, and fix the revenue payable to itself by each cultivator accordingly, thus disregarding altogether the original occupiers of the soil or their representatives, or pensioning them. 2ndly. Where a number of cultivators of lands adjoining each other are found to hold their lands from one individual, or from several individuals connected together who perhaps themselves cultivate some lands also adjoining, the Government may limit its efforts to ascertain generally the *total* amount of rent payable by all those petty tenures, and fix the tax thereupon to be paid yearly by the proprietor, or proprietors, for a determined period or for ever. The former kind of settlement is the *Ryotwar* settlement and the second the *Zemindaree* settlement. In the former, there being no private person over the immediate cultivators of the soil interested as proprietor in its improvement, the digging of wells, making of bunds, and advancing of money to the cultivators where this is necessary, must be done by the Government, that is, by its officers. But experience has generally proved that Government officers are very ill qualified for such details. They are not constantly under the powerful influence of personal interest as a Zemindar would be; they cannot, in general, be so well acquainted with the character of each cultivator, they may be dishonest, &c. On the whole this system of settlement which appears at first to secure to the State all future increase in the rent of land, and might be supposed likely to enable the Government to dispense with all other taxes, was tried in Madras on a grand scale, and has in practice been found not by any means so advantageous as it had been considered by its most celebrated supporters. Instead of securing all increase of rent to the State, it has too often been found that it effectually prevented all such increase taking place at all, if it did not do worse, and accordingly the Government has not found expedient to adopt it in other parts of India. The settlements of Bengal and Behar were made with the land proprietors; so have those of the Western Provinces. We shall therefore only allude here to Zemindaree settlements.

To ascertain the value of an estate, the officer appointed to assess it must, in general, first have it measured, and see how much land is under cultivation, or culturable though not yet cultivated; he has to examine the facilities of irrigation, and to compare the nature of the soil with that of the neighbouring villages. Having thus found, for instance, that the estate contains one thousand beegahs* out of which three hundred beegahs are not fit for cultivation, or are held rent free under a proper sunnud, and that the 700 beegahs remaining may be divided as follows:

100	Beegahs	of the 1st	quality in the Pergunnah.
240	Do.	2nd „	„
360	Do.	3rd „	„

the assessing officer, if he does not already know the pergunnah rates for the land of each description, ascertains them from the Putwaree's† papers of the estate in question, and from the papers of the surrounding villages, and also takes on this point the evidence of some of the neighbouring Putwarees and Ryots. He thus finds out that the cultivator of a field close by the estate in question, containing five beegahs of land of the first quality, pays 7 Rupees 8 annas malgoozaree to the Zemindar of his village; for another field in which the land is only of the second quality he pays only at the rate of one Rupee per beegah, and for another still inferior at the rate of 12 annas. He thus makes up a total:

				Rs.
100	Beegahs	at 1/8	=	150
240	Do.	at 1	=	240
360	Do.	at 12 annas	=	270
				660

This estimate is further checked, if possible, by a reference to the produce of the village in previous years, and by inquiring into the

* The Beegah varying in size in different parts of the country great caution is necessary in comparing rates to reduce areas to the same standard.

† The Putwaree is the Village accountant and rent gatherer see No. 6, Chapter II.

price for which the estate may have been farmed or sold, if it was farmed or sold within a few years previously.

Such then is the basis upon which the assessment is to be fixed, since this is the amount payable to the Zemindar by his ryots.

But in realizing that amount from his ryots the Zemindar has expenses to incur; he must keep a Putwaree* and one or two Peadas and Chowkeedars; besides, in bad seasons some of his poorest ryots are unable to pay their Malgoozaree, and some losses are thus incurred by him. For all these, and for the trouble of collecting the rent, an allowance is made to the Zemindar of 20 or 25 per cent., to which adding a further allowance of about 10 per cent. for Malikana,† the balance, that is, 65 to 70 per cent. of the average gross income, is considered the right of the State.‡ The assessment of the estate above alluded to would thus be about 440 Rupees, which the Zemindar would be required to pay every year in a certain number of kists agreed upon, whether the season be favourable or not. On his taking an engagement to that effect, he has the most solemn pledge given him, in a *permanent* settlement, that, whatever increase may take place in the value of his estate at a future period, no more than the above sum will be demanded from him, or his successors, for the estate in question.

When visiting, and previous to measuring the estate, the assessing officer should mark out the boundaries, and draw a plan of the whole as accurately as possible. If there be any disputed boundaries he should have them settled amicably if he can, or by arbitration.

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* See further No. 6, Chapter II.

† Percentage due to the *Malick* or proprietor according to the custom of the country. This is assumed to be the actual sum remaining as the right of the Zemindar, after paying the Government revenue, allowing for all losses, and deducting all expenses of collection and other charges.

‡ Reg. VII. 1822, Sect. 7, Cl. 2. Governor General's Minute, 26th Sept 1832, para. 11.

In villages where there are hereditary ryots, entitled to hold permanent possession of their lands at a fixed rate, or at the rates of the pergunnah, and others who are mere tenants at will, the assessing officer must always in making the settlement of the village determine the right of each ryot in that respect.

First Permanent settlements in Bengal.

Little or no attention was paid to the above rules in the ten years' settlements made in Bengal under the Government of Lord Cornwallis, which settlements were afterwards sanctioned as permanent by the Court of Directors. In many instances the assessing officer did not visit the estates, but estimated their value from the records of his office and from oral testimony. The number of beegahs entered in the settlement papers has since often been found very incorrect, some villages containing twice as much land as was recorded in the settlement papers.

Settlements in the Upper Provinces.

Instead of thus disposing for ever of the Government revenue at random, the assessments made in late years were, as stated above, preceded by the most careful inquiries into the extent and capabilities of the villages, the settlement of all boundary disputes, and the definition of all individual rights. The mode in which this is done in the Upper Provinces is particularly to be commended, and is greatly superior to the system of settlement adopted even in late years, in the Lower Provinces, with regard to the accuracy of the survey and measurement, the valuation of the lands, and the great precautions taken to prevent improper assessment.* In the Lower Provinces, these essential elements of a good settlement are left more to the discretion of the settlement officer, the lands being measured only by a native Ameen, and his measurement subject to the test of the settlement officer himself, without any regular

* Besides the regular survey by European officers, the settlement officers of the Upper Provinces have had a great advantage over their brethren of Bengal and Behar in the number of temporary settlements of every estate in that part of the country during the last thirty years. Those settlements and their subsequent results must have furnished most valuable information on the real value of each estate.

survey or map of the estate being made. Again, with regard to assessment, the settlement officer in the Upper Provinces is not permitted to proceed with the assessment of an estate without having before him statements showing the revenue actually derived from the Pergunnah generally, and each particular estate, in previous years. Having an exact measurement of each estate, with information relative to the extent of land of each quality in it, and also a statement of what each estate has actually been found able to pay, and having ascertained besides from his records whether the estate did pay that amount of revenue with ease or difficulty, that is, whether it was necessary to have recourse to attachment and how many times this occurred, &c. he has the most efficient means to check the estimate of the value of the land by what that land has actually produced, or to ascertain the good or bad management of the estate by comparing the revenue paid upon it in previous years with its extent and power of production. For instance, supposing two estates in the same pergunnah have been measured and surveyed, and are reported to have the same extent of land, the soil being generally of the same quality and with equal means of irrigation, if one of the estates be found to have yielded an average revenue of *one thousand*, while the other yielded only *eight hundred*, rupees, and that the former paid its revenue with ease and the latter was several times put under attachment, this difference probably arises either from some error in the survey, or from bad management; so the settlement officer must ascertain before he assesses these estates the cause of the discrepancy. Whatever conclusion he may come to, he is expected to explain in his settlement report or in the statements which accompany it, on what grounds he recommends either an increase of the previous assessment or any other alteration.

Under the above circumstances, any very improper assessment is not at all probable, or if it occurs in the first instance it will generally be checked by the superior authorities. In the Lower Provinces, notwithstanding the usual precautions taken, it is more likely that an estate may be over assessed. There settlement officers, having generally at the present day to settle none but resumed tenures,* have

* How the first permanent settlements were made under Lord Cornwallis' government has been stated before.

not the means to obtain such positive information on the actual produce of an estate, as may be had in the Upper Provinces by a reference to the settlements of previous years. When even they might procure information similar to that which the settlement officers of the Western Provinces are required to have before them at the time of assessing an estate, the necessity of doing so not having been so strongly urged upon them, and that information being forcibly dispensed with in many cases, they perhaps do not always take the trouble to endeavour to get it, or they obtain it only in part and do not use it in the same methodical way. The information alluded to has not consequently, even when obtainable, all the influence it might have, nor does it supply the superior officers with the same means of checking errors in the assessment. Thus an inexperienced or over zealous officer may possibly exaggerate the value of an estate and assess it at a higher rate than it can bear, which, if the assessment be confirmed by superior authority, will necessarily lead to the ruin of the proprietor, and also probably to an ultimate loss of revenue. Such errors, when they happen, must of course be matter of regret to all, and are discreditable to the officer, who erroneously and foolishly imagined it to be his duty to exact from the unfortunate Zemindar the highest terms to which the latter, in his anxiety to remain in possession of his land, could be prevailed upon to agree to.

On this subject the Western Board write to the Commissioners:

"You will particularly enjoin on the settlement officers that the settlement should be moderate. The Board's experience has made them aware that it is much better to demand something under, than any thing above, the just amount; and that as a question of profit and loss, putting altogether out of view the consideration of private misery or comfort, and national prosperity or ruin, the actual loss of hard money to Government will be far greater in the latter case than in the former. People who see a likelihood of deriving benefit from their efforts, work willingly and well, and are always ready with their dues. But once take away hope and you remove every incentive to exertion." Circular Order, No. 1, para. 118.

Since the assessment is based on the average net income, and does not vary according to the seasons, while the actual income derived

from the village must of course greatly vary in different years, it follows that the tax is found very light in a good year but perhaps very heavy in a bad one. It is therefore necessary for the Zemindar to be cautious and not spend the whole of his income in a good season, but lay by a part of it so as to be able to keep up the same style of life in a bad year, and at the same time pay his malgoozaree according to the kists (instalments) agreed upon; or otherwise his estate may be put up for sale and sold to the highest bidder.

Leases for a long period.

As the Government have found it consistent with their interest to assess the lands either for ever, or at least for a very long period, so a Zemindar would also find it greatly to his benefit to give long leases to his non-hereditary ryots. The cultivator of a portion of land who may be ousted from year to year, gets out of the land as much as he can, but in general does not think of troubling himself about improving it. If, on the contrary, he has a lease of 15 or 20 years, he will know that if he can improve his land he will derive the benefit of his improvements for a considerable period. He will thus be induced to erect bunds, to dig wells for irrigation, to enclose his land with hedges, and to manure it. A lease of several years is also necessary to enable a ryot to alternate with advantage the crops on his lands. Experience has demonstrated that the best lands are soon exhausted by a succession of crops of the same kind. For instance, if wheat is sown for several years in the same field, especially if the soil of that field be not renewed by inundation of river water or manure, it will gradually exhaust itself, and, after giving the most luxurious crops for perhaps two or three years, will not be fit to give any crop at all until it has been left uncultivated for some time. It has been found, on that account, extremely advantageous to alternate the corn and green crops in a certain order. Experience only can show what order would be the most advantageous in India. If a ryot has not a long lease he will naturally try to get the richest crop from his land without caring whether this will exhaust it or not.

Increase of the Wealth of Zemindars.

We have seen before, that independently of any improvement in a certain portion of cultivated land, the rent of that land goes on increasing as the demand for food, that is, as population increases; it follows that if

the cultivators be free from oppression and plunder, if the country be well governed and exempt from any extraordinary calamity, as, under such circumstances, the population cannot fail to become greater, the rent which the Zemindars will receive from their ryots will be higher and higher; and as the Government has surrendered to them all right to any part of that increase, their wealth must necessarily go much beyond the point it has now attained.

Other causes also tend to increase the wealth of the Zemindars; viz. the improvements of agriculture, and the new markets opened to the produce of the land. Fifty years ago very little indigo or opium was exported from India;* now immense quantities are exported every year, and, as this does not diminish the demand of any other kind of agricultural produce, it follows that the cultivation of a large quantity of opium and indigo must have increased the demand for land, and consequently raised rent. The annual produce of many estates in Bengal and Behar, has probably more than doubled since the permanent settlement was concluded.

SECTION IV.

Realization of the Land Tax.

This section will include: 1st. Realization of rent from the Ryots or other undertenants by the Zemindar; 2d. Realization of the land tax from the Zemindars by Government.

I. Realization of rent by the Zemindar.

The Zemindars have a complete right to the land which is not held by hereditary or Khoodkhasht Ryots; they may raise the rent, and obtain an order from the Collector to dispossess the ryot if he is

* In the beginning of this century the exportation of opium from India did not exceed 2,500 Chests, it has since risen to more than 30,000. Scarcely any Indigo was exported from India sixty years ago, the exports average now more than a lack of maunds.

not willing, or if he fails to pay the increased rate. This raising of rents can only of course be done for the future;* as regards the past, or till the period for which the former agreement was made has elapsed, the rates previously settled are alone claimable and nothing more can be demanded.

The Ryot does not pay all his rent at once, but certain portions at different times. Each separate payment is called a *kist*, and the agreement fixing the period and amount of each payment is the kistbundy. The Zemindar has no right to ask the payment of a kist, or instalment, before it is due; and in fact the Ryot cannot pay in advance without running the risk of paying twice, since in case the estate should be sold, either by the Zemindar himself or by Government for recovery of arrears, the purchaser is authorized by the law to claim payment of all the kists which may fall due subsequently to the sale, without any deduction whatever for any payment the Ryots might have made, in anticipation, to the former proprietor. Reg. VII. 1799, Sect. 23.

Proprietors should adjust the kists, or instalments, payable by their undertenants, with reference to the time of realizing the produce of the lands, when the payment of such kists can be more easily effected. For failing so to adjust the kistbundy, Zemindars are liable to damages on a suit being instituted against them in the Civil Court. Reg. VIII. 1793, Sect. 64.

Proprietors of land, or their agents, are bound to give receipts for all sums paid as rent or revenue, and a *receipt in full* on the complete discharge of every obligation; on proof of refusal the Ryot is entitled to damages. Reg. VIII. 1793, Sect. 63.

Distraint.

In case of non-payment of their Malgoozaree by the Ryots, Zemindars, Talookdars, and Farmers of rent, are authorized to distrain the crops, grain, cattle, and other description of personal property of the de-

* For the previous notification to be given see part 2nd of this Section in a note to Sect. 27, of Act XII. of 1841.

faulters, and to cause the said property to be sold for the discharge of the arrears. Reg. XVII. 1793, Sect. 2.—Ben. Reg. XLV. 1795, Sect. 2.—Ced. Pr. Reg. XXVIII. 1803, Sect. 2.

Zemindars, Talookdars and Farmers of rent, are responsible for any wilful deviation from, or gross neglect and inattention to, the rules prescribed for distraint. Reg. VII. 1799, Sect. 2.— Ben. Reg. V. 1800, Sect. 2.—Ced. Pr. Reg. XXVIII. 1803, Sect. 2.

The ploughs and implements of husbandry, the cattle actually trained to the plough, and the seed grain of under farmers and Ryots, cannot be distrained by Zemindars for arrears under any circumstances.* (Reg. V. 1812, Sect. 14.)

Nor can they distrain any lands, houses, or other real property; the loom, thread, unwrought silk or materials of manufacture, of any weaver or manufacturer; or the tools of any tradesman or labourer. If this be done, the defaulter will stand acquitted of the arrears; the property seized, or its value, will be returned to him, as well as damages paid for any loss he may have suffered. Reg. XVII. 1793, Sect. 3.—Ben. Reg. XLV. 1795, Sect. 3.—Ced. Pr. Reg. XXVIII. 1803, Sect. 3.

Distrainers must furnish the person they may depute to distrain, with a writing specifying the amount of the arrear, and the date on which it became due; and notifying the intention of proceeding to sale if it be not paid immediately. The notice is to be served on the defaulter, or if absent, at his residence, within three days from the day of attachment. Ditto.

An inventory of the attached property, should be transmitted by

* The object of this and the following Section, is to prevent a man being deprived, not only of the sole means he has to acquire any property wherewith he may pay his debts, but also of his sole means of subsistence. What can an agricultor do without his agricultural implements, or any labourer without his tools? This exemption, however, is limited to claims for arrears of rent.

the distrainer to the officer empowered to sell it, with an application to put it up for sale for the arrear due. Ditto.

No process for distress or sale can be legal, unless the tenant be served with a written demand accompanied with a *Jumma wassil Bakee.** Reg. V. 1812, Sect. 13.

No attachment can be made at any other time but between sunrise and sunset. Reg. XVII. 1793, Sect. 17.—Ben. Reg. XLV. 1795, Sect. 15.—Ced. Pr. Reg. XXVIII. 1803, Sect. 5.

A Distrainer may, in presence of a police officer, force open the outer door of a dwelling house in which he has reason to suppose the defaulter's property to be lodged. He may also, under the same circumstances, after due notice to remove the inmates, enter the women's apartments, and attach any of the defaulter's property therein deposited. Reg. VII. 1799, Sect. 10.—Ben. Reg. V. 1800, Sect. 10.—Ced. Pr. Reg. XXVIII. 1803, Sect. 19.

No claim to ground products attached in the possession of the defaulter can bar the prior claim of ground rent. Reg. VII. 1799, Sect. 9.—Ben. Reg. V. 1800, Sect. 9.—Ced. Pr. Reg. XXVIII. 1803, Sect. 17.

Property distrained should not be taken out of the pergunnah, but should either be left on the premises in charge of any person the distrainer may think proper, or should be conveyed with due care to a proper place as near as possible to the premises, within the limits of the pergunnah. Reg. XVII. 1793, Sect. 13.—Ben. Reg. XLV. 1795, Sect. 11.—Ced. Pr. Reg. XXVIII. 1803, Sect. 11.

Distrained property should be appraised previous to sale, and a certificate furnished to the defaulter. Reg. V. 1812, Sect. 18.

Under Farmers and Ryots who have given security for the pay-

* An account showing the total sum payable, all the payments made in part of it, and the balance remaining still due.

ment of their rent, may within five days of the attachment procure it to be withdrawn, if they contest the correctness of the demand, and state this in a petition to the judge binding themselves to institute, within 15 days, a suit to try the case; or, if they admit only part of the demand, they may have their property released on paying the sum they admit to be due, and giving security to contest the remainder within 15 days by instituting a proper suit.* Reg. V. 1812, Sect. 15, Cl. 16.—Reg. VIII. 1831, Sect. 12.

Attachment must be withdrawn if the defaulter pays the arrears, and the expenses of attachment, previous to the day of sale. Reg. VII. 1793, Sect. 11.—Ben. Reg. XLV. 1795, Sect. 9.—Ced. Pr. Reg. XXVIII. 1803, Sect. 9.

Collectors are competent to appoint persons to sell property distrained for arrears, and such persons may remunerate themselves by a percentage not exceeding 10 per cent. in any case. Reg. I. 1839, Sect. 2.

Between the 5th and 8th day from the attachment, the person authorized to sell distrained property should give due notice of the day and hour of sale, and of the spot on which that sale will take place. Reg. XXXV. 1795, Sect. 5.—Ben. Reg. XLV. 1795, Sect. 20.

If the property sells for more than the arrear, the excess is to be made over to the defaulter. If it sells for less, other property belonging to him may be attached. Ditto.

If a price equal to the appraised value of the property be not offered, the sale must be postponed to the next market day, when the pro-

* Moonsiffs under Reg. V. of 1831, in addition to their powers of trying regular suits for arrears of rent, are competent to dispose of claims preferred by undertenants and others who may be desirous of resisting the distraint of their property or the attachment of their persons; or who may prefer a claim for damages on account of such acts. Moonsiffs are competent in such cases to award damages. Reg. VIII. 1831, Sect. 11.

perty shall be actually sold at any price not less than the amount bid the first time. Reg. V. 1812, Sect. 19.

The transfer of a defaulter's property to prevent distraint is invalid. Persons to whom such transfers may be made are liable to pay damages equal to half the value of the property. Reg. XVII. 1793, Sect. 17.—Ben. Reg. XLV. 1795, Sect. 15.—Ced. Pr. Reg. XXVIII. 1803, Sect. 15.

If any under-farmer, or ryot, resists the process of attachment, or clandestinely takes away the property after it has been attached, the Civil Court* shall cause him and his abettors to be imprisoned in the jail, until he shall restore the property or liquidate the arrears. Reg. XVII. 1793, Sect. 19.—Ben. Reg. XLV. 1795, Sect. 17.—Ced. Pr. Reg. XXVIII. 1803, Sect. 17.

In addition to the above, the ryot who resists the process of attachment, or clandestinely takes away the property after it has been attached, is liable to pay damages to the distrainer, equal to twice the amount of the property rescued. The offender and all persons concerned in resisting the attachment, are moreover subject to a Criminal prosecution for any breach of the peace committed by them. No more property should be attached than is likely to be necessary to liquidate the balance. Reg. XVII. 1793, Sect. 9.—Ben. Reg. V. 1800, Sect. 9.—Ced. Pr. Reg. XXVIII. 1803, Sect. 17.

Arrest of defaulters.

If the rent cannot be realized by distraint, the Zemindar, Talookdar or farmer, after demanding the arrear from the defaulter and his surety, or without such demand if he has reason to believe that the defaulter or his surety is prepared to abscond, may cause the immediate arrest of such defaulter and his surety. Reg. VII. 1799. Sect. 15.—Ben. Reg. V. 1800. Sect. 14.—Ced. Pr. Reg. XXVIII. 1803. Sect. 32.

The Zemindar is for that purpose to present a petition to the Col-

* See further Sect. V. Reg VIII. of 1831. The cognizance of summary suits has, by that Regulation, been transferred to Collectors.

lector,* setting forth the arrear due from the defaulter, and praying that the defaulter and his surety may be taken into custody until the arrear be paid. Ditto.

The above process is not applicable with regard to an arrear of rent which has been due more than one year. Reg. II. 1805, Sect. 4.

When an Under-farmer, or Ryot, arrested as above, does not immediately pay the arrear demanded, the proprietor, or farmer, may attach the land and manage it, through his own agents, until the rent payable to him, and any further rent which may be due for the period subsequent to attachment, with interest at one per cent. per mensem, may be paid. He is not, of course, to require from the under-tenants, or ryots, any higher sum than they were bound to pay to the other party. If the defaulter pays, at any time during the current year, the arrear with interest, the attachment should be immediately withdrawn. Reg. VII. 1799, Sect. 15.—Ben. Reg. V. 1800, Sect. 14.—Ced. Pr. Reg. XXVIII. 1803, Sect. 32.

If the defaulter does not liquidate the arrear within the current year, his tenure, if transferable by sale, may be sold; or, otherwise, he may be ousted without any application to the Courts of Justice.†

* The Regulation says, "*Judge or Moonsiff*," but, as Reg. VIII. of 1831, has transferred the cognizance of summary suits from the Judicial to the Revenue authorities, such petitions must (unless the plaintiff prefers to prosecute his claim by a regular suit in the Civil Court) now be addressed to the Collector, or any subordinate revenue officer having the same powers as the Collector in that respect, within whose jurisdiction the cause of action may have arisen.

† This right of ejecting a ryot without application to the Courts of Justice, appears to be no longer in existence. Act IV. of 1840, Sect. 2 and 4, enacts that, no farmer or ryot should be dispossessed of any lands, premises, water, crops, &c. without the order of a competent court, pending which the party forcibly dispossessed may be re-instated by the Magistrate. Section 10 adds: "nothing in this act is to affect the rights of attachment and seizure."

See further for the right to eject possessed by the purchaser at a public sale for arrears of revenue. Act XII. of 1841, Sect. 27.

Defaulting tenants, if illegally injured in any process against them, may recover their rights with full costs and damages by a suit in the proper court. Ditto.

Summary Suits.

All summary cases, relating to arrears or exactions of rent, are cognizable by the Collectors and not by judicial officers.* Reg. VIII. 1831, Sect. 5.

The Collector can only enforce payment of the rent paid in past years, to the entire exclusion of all claims to increase, except on proof of bonâ fide written engagements to pay such increase. Reg. VIII. 1831, Sect. 10.

A summary suit can be admitted only within one year of the balance claimed being due. Reg. II. 1805, Sect. 4.

Summary claims for arrears or exactions of rent preferred to a Collector, should be written on a stamp of one-fourth the value required in a regular suit; the Collector, however, is authorized to receive a complaint on a stamp of 8 annas from a dependent Talookdar, or a Ryot, if the complainant be unable to pay for a proper stamp, or if for other reasons the indulgence be considered proper. Reg. VIII. 1831, Sect. 7.

If a claim, cognizable as a summary suit, be preferred in a Civil Court in the first instance, the plaint may be written on a stamp of one-fourth of the value prescribed in other regular suits. Ditto, Sect. 8.

Summary decisions of Collectors are appealable, within one month, to the Commissioners of Revenue on the ground of irrelevancy, and the Commissioner should dismiss the appeal with costs if the irrelevancy be not established; but if the case do not appear to be of a nature cognizable under the Regulations as a Summary suit, that officer shall reverse the Collector's judgment, or pass thereupon any further

* They are cognizable by the Civil Courts if preferred as regular suits. Reg. VIII. 1831, Sect. 3.

orders, which he may think just and proper under the Regulations in force. Reg. VIII. 1831, Sect. 4.

Summary awards may be contested by a regular suit, within one year of the delivery, or tender, of the Collector's decision, to the party against which the award was given. Ditto, Sect. 6.

Principal Sudder Ameens and Moonsiffs, are competent to try regular suits in appeal from the decision of Collectors. Act XXV. 1837, Sect. 2.

II.—*Realization of the land tax by the Government.*

Realization of the land tax.

The Government has a prior claim to any other creditor on maf-goozaree land, which is held to be mortgaged for the amount of revenue due upon it.

When a Zemindar has agreed to pay a certain sum* to Government for his land, in case he fails to make good his engagement the Government must have some means to compel him to do so. The public expenses must be regularly paid, and, how can this be done if the taxes be not paid with equal regularity? To compel the Zemindar to fulfil his engagements, the Government have the same means, or means very similar to those, which he himself has to compel his ryots to pay their rents.† They may take his estate under

* In the Upper Provinces the number of Kists payable by the Zemindars, to the Government has been reduced to four; viz. two after the Khureef payable in November, December or January according to the usual time of gathering the crops in each District, and two payable in May and June after the Rubbee crop. (See S. B. C. O. No. 2, para. 4 to 17.) These kists may be paid to the Tehsildars who usually reside in the interior of the District, and thus a Zemindar saves himself the trouble of going to the Collector's office which may be very remote from him.

† Zemindars and other proprietors of land are not liable to arrest for arrears of revenue, unless the sale of their lands should not be sufficient to liquidate their balances. Reg. III. 1794, Sect. 3. Sect. 14.

This rule however does not apparently apply to Benares or the Upper Provinces, where proprietors of land may still be arrested under the Regulations previous to the sale of their lands.

khas management, that is, attach the land on which the arrear is due, and collect rents directly from the ryots until the arrears be paid up; or, in estates permanently settled, they may sell the land.* In the latter case the proceeds of the sale go to the liquidation of the arrears; the purchaser is substituted for the defaulter in the ownership of the village, and he is henceforth bound to pay the required amount of the tax. If the sale proceeds exceed the arrear the excess is made over to the defaulter; if on the contrary they are less than that and all subsequent arrears to the day of sale, the defaulter is liable for the same in any other property he may have.

The Collector may be prosecuted in the Civil Court by any proprietor, or farmer of land, from whom he may have exacted any sum beyond the amount of the latter's engagements.† Reg. III. 1794, Sect. 12.—Ben. Reg. V. 1800, Sect. 23.—Ced. Pr. Reg. XVII. 1803, Sect. 15.

Any person, confined for arrears of revenue or other demands of Government, is at liberty to apply to the judge to require the Collector to show cause why he is continued in confinement. Reg. XIV. 1793, Sect. 29.—Ben. Reg. VI. 1795, Sect. 35.—Ced. Pr. Reg. XXVII. 1803, Sect. 32.

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* If the estate be not permanently settled the Collector may let it in farm. Reg. IX. 1825, Sect. 4. With regard to "Putteedaree estates" see further, Act I. 1841.

† A Judge is not *legally* answerable for an erroneous decision, because not being interested in the case, his error is held to be nothing but the natural result of human fallibility. He is, however, *morally* responsible in all cases where his error arose from want of care in sifting the evidence, or from ignorance of the law, or from any other similar cause. If a wrong decision be proved to have been given from dishonest motives, the Judge is of course *legally* responsible.

The same principle applies to a Collector acting in his judicial capacity, that is, trying a summary suit, a boundary dispute, &c. But where the Collector, instead of being a *disinterested* Judge in the case, is, as the representative or Agent of Government, an *interested* party, he is subject to the law of the land like a private individual.

Sale of lands for arrears.

Up to the enactment of Act XII. of 1841, all arrears of revenue were chargeable with interest at the rate of 12 per cent. per annum and a penalty of the same amount, and, when the kist due on an estate was not paid to the Collector within one month of the date on which it was due, the estate might be advertised for sale. The sale however could not take place till 30 days at least subsequent to the advertisement, and in the mean time the defaulter was at liberty to pay the arrear and thus prevent the sale. This being the case, the advertisement of an estate for sale on account of arrears of revenue, had become in great measure, as far as regards the public, an empty and unmeaning form. In some districts, hundreds of estates were sometimes advertised for sale in the same month, and none or very few sold. Many Zemindars made it a rule to delay the payment of each kist to the last moment, that is, to the day before the sale was to take place, or even till that very day.

Besides, if a sale actually took place, as the rules under which it was to be effected were numerous and intricate, the regularity of almost every sale was disputed. Either the person to whom the estate had been knocked down was asserted to be a fictitious purchaser, that is, to have bought the estate for some individual disqualified by law to purchase it himself; or the Ishtehar (notice of sale) was found fault with as not describing the estate correctly, or not having been duly issued at the proper time, or not having been postponed according to the rules; or the defaulter represented that he had some money in deposit in the treasury, on account of some other Mehal,* which would have covered his balance, and should have been applied to its liquidation by the Collector, &c. &c. On these, or other similar grounds, it often happened that the Commissioner was compelled to cancel the sale, or, as it was left entirely to his discretion to cancel it, even when regular, if he thought the case a hard one, or for any other reason, it so happened that comparatively very few sales were confirmed, perhaps in some districts not one out of every

* The word "Mehal" is used in this work to signify a landed estate of any extent.

hundred advertised by the Collector. This arbitrary discretion left to the Commissioner to confirm a sale or not, was apparently an error of legislation. A Zemindar, instead of being subject only to the law, was subject to caprice. If he had known himself subject to a law which was to have in every case its execution, and the provisions of which were so simple as not likely to render the proceedings of the Collector voidable for some slight irregularity, he would not have been so apt to neglect to pay his revenue, in the hope of getting the sale cancelled by interesting the Commissioner in his behalf, or perhaps by bribing the Sheristadar. Nothing is more calculated to degrade the character of Zemindars generally, or to corrupt that of native officers, than to leave the former, any more than is positively unavoidable, at the mercy of the latter. It is true that an inflexible law may sometimes be very harsh in its application, but this happens only in a few cases, and in general such a law, being once well understood, is an efficient warning to every one not to render himself liable to its provisions. Under the former law of sale it depended almost entirely on the Collector in the first instance, and afterwards on the Commissioner, whether an estate under arrears actually passed from the hands of the defaulter into those of a new proprietor. Sometimes a very lenient Collector or Commissioner was succeeded by a more strict officer, and men who had trusted to the well known leniency of the former found themselves, to their utter amazement, all at once deprived of their lands, a conclusion they had never for a moment contemplated.

Under such circumstances, when an estate was actually sold it was generally sold much below its value. The difficulty for capitalists of knowing exactly what the estate was worth, the necessity of paying a large per centage of the price when the lot was knocked down, the uncertainty, up to the moment of the sale, whether the estate should be sold or not, the great doubt whether the sale would ultimately be cancelled or confirmed by the Commissioner and the Board, and lastly the difficulties sometimes to be encountered in taking possession, were objections to purchases of this kind which had the effect of deterring many from venturing to lay out their money in that manner. So the bidders were few, and in many instances estates

sold for only four or five times their annual rent or even less.* Thus incautious and imprudent men, who perhaps had neglected to provide for the payment of their revenue at the proper time in the hope they would be able to pay it before the day of sale, or that the sale would be cancelled by the Commissioner or the Board, found themselves entirely ruined.

In lieu of the law above alluded to, and to settle more accurately the respective rights of ryots and purchasers, Act XII. of 1841, was enacted. The act in question is an improvement of the law on this subject, though it is still liable to some of the objections above stated. The draft of a more sweeping reform of this branch of legislation had been proposed, but its strict and unbending rules were so contrary to the indolent and imprudent habits of the people, habits which the late law was rather calculated to foster than to correct, that it was apprehended it might have had the effect of causing the ruin of many negligent proprietors. A high officer of Government stated in an official letter, in praise of that proposed draft, that it would, in a few years, transfer a large part of the lands in the country from the hands of the present holders to those of new proprietors, who probably would do them more justice; but the Governor General remarked upon this, that if the effect of the contemplated law was likely to cause such a wholesale and abrupt change, the law should not be enacted. Any compulsory transfer of property is always in itself much to be deprecated. It is an evil which nothing but necessity can justify.

ABSTRACT OF ACT XII. OF 1841.

SALE OF LANDS FOR ARREARS OF REVENUE.

No interest or penalty shall be levied on arrears of Land Revenue falling due after the 1st January, 1842. Sect. 2.

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* A Collector is directed to purchase on account of Government any estate for which, when put up for sale on account of arrears, no offer may be made equal to the balance due from it (L. P. S. B. C. O. 23rd May, 1837, No. 35). This with the cunning and dishonest is tantamount to say that an estate in such a case will be taken by Government for its balances; whereas the simple and honest proprietor, who does not think of getting a friend to bid his estate up for him, may see it knocked down for one rupee, and

Days of sale.

The Sudder Board of Revenue at Calcutta, shall determine immediately on the fixed dates for sales of Mehals for arrears in Districts permanently settled, and duly publish the same in the Government Gazette, and in the Courts of the Judges, Collectors and Magistrates, Principal Sudder Ameens, Sudder Ameens and Sudder Moonsiffs. No alteration of these dates shall take place, without similar notice to that by which they were fixed being issued at least three months beforehand. Another notice shall be given in the above Courts, at least 15 days before the day fixed for the sale, and the Collector is bound to furnish within this interval, to all inquirers, full particulars as to what estates are in balance, and as to the amount due on each. Sect. 3.

Districts not permanently settled.

In Districts not permanently settled and in the Province of Benares, no sale shall take place for arrears, or other Government demand, without the Sudder Board's sanction. Sect. 4.

Arrear.

Any kist, or portion of kist, of any month, remaining unpaid on the 1st of the following month, shall be considered an arrear. Sect. 5.

Estates in arrear to be sold.

Except as hereinafter excepted, all estates from which, at sunset of the day preceding the day fixed for the sale, any arrear may be due, shall be sold on any of the following days to the highest bidder, any subsequent tender of payment notwithstanding. Sect. 6.

Remission or Exceptions claimed.

No claim to remission, unless allowed by Government, nor cause of action against Government, shall bar a sale or render it null under this Act; nor shall the plea that money belonging to the defaulter and sufficient to pay the balance, or part of it, was in the Collector's hands, bar a sale or render it null, unless such money stood in the defaulter's name alone and without dispute, and unless application had been

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and thus be deprived of it and still liable for its arrears. It would apparently be better to adopt openly as a rule what can so easily be made one through a little fraudulent trickery on the part of a defaulter.

made in due time, and the Collector, had omitted on insufficient grounds, to transfer it to the credit of the estate. Sect. 7.

Notice of Sale.

No estate shall be sold for arrears, or demand, of the description mentioned below, otherwise than after due notification, 15 days before hand, in the Courts of the Judge, the Collector and all the Principal Sudder Ameens, Sudder Ameens and Moonsiffs of the District, and at the Police Thannah within the jurisdiction of which the estate, or part of it, is situated, and also at the Cutchery of the Malgoozar. The giving of the notification shall be in this last case certified by the Peon sent for that purpose, and in the other cases by the officer at whose office the notice is given.

1st. Arrears due from, or to be recovered by the sale of, estates not permanently settled.

2nd. Arrears other than those of the current or preceding year.

3rd. Arrears due on account of estates other than that to be sold.

4th. Arrears of estates under attachment by order of the Judicial Authorities.

5th. Arrears due for Tuccavy, Poolbundee, &c. or other similar demands realizable as land Revenue. Sect. 8.

Payment by non-proprietors.

If any party, not a proprietor, should tender the amount of the arrear at any time before the day fixed for the sale, the Collector is ordered to receive the same and to carry it to the credit of the estate. And if the depositor be a plaintiff in any suit, the Judge of the Zillah in which the estate is situated shall be competent to order the said party to be put into temporary possession, subject to the usual rules for taking security in cases of appeal. And if the said party proves that the deposit was made in order to protect his rights, he shall be entitled to recover the amount with interest. Sect. 9.

Minors' Estates, or Estates attached.

No estate is liable to sale for arrears which accrued under the management of the Court of Wards; and no Mehal, the sole property of a minor or minors, regularly inherited by him or them—the transfer having been duly notified to the Collector for the information of the Court of Wards but the latter not having taken the management of the estate—shall be sold for arrears accruing subsequently to his or their succession, until the minor, or minors, or one of them, be 18 years of age. And no estate, under attachment by the Revenue Authorities otherwise than by order of a Judicial Authority, shall be liable to be sold for arrears which accrued while under attachment, nor if the estate was attached by order of a Judicial Authority, until after the end of the year in which the arrear accrued under attachment. Sect. 10.

Exemption from sale.

Before commencing the sale, the Collector may exempt any estate from sale, and so the Commissioner may do by an order to the Collector. Provided however the Collector, or Commissioner, records his reason for such exemption, and the order of the Commissioner reaches the Collector before the sale has been effected. Sect. 11.

Sales at the Cutchery.

Sales should be held at the Collector's Cutchery, unless the Sudder Board of Revenue prescribe some other place. Sect. 12.

Adjournment.

If the Collector be from any cause unable to hold the sale on the day appointed for it, he may adjourn it to the next day not being a holiday, recording his reasons and forwarding a copy of his proceeding to the Commissioner, and also announcing the adjournment by a written proclamation stuck up in his Cutchery; and so on from day to day till the sale takes place. Sect. 13.

Order of sale.

On the day fixed for the sales of the estates in arrears, the sales shall proceed in regular order from the estate bearing the lowest number on the Towjee or Register. Sect. 14.

Deposit.

The purchaser shall be required to deposit immediately, or as soon after the sale as the Collector may think necessary, either in Cash, Bank of Bengal Notes or Post Bills, or Government Securities duly endorsed, 25 per cent. on his bid, otherwise the estate shall forthwith be put up for sale again and sold. Sect. 15.

Purchase Money.

The full amount of purchase money must be made good by the purchaser before sunset of the 30th day, the day of sale being reckoned the first, or if the 30th day be a holiday, on the next office day. Otherwise the deposit will be forfeited to Government, the estate re-sold, the defaulting purchaser having no right to any extra price it may fetch, but being responsible for any deficiency in that price below his own bid, the difference being leviable from him as an arrear of revenue; and if several successive defaults occur, the defaulting bidders shall be held jointly and severally responsible to the amount of their respective bids. Every such re-sale to be made after notification and under the forms of Section 5. Sect. 16.

Payments of rents stopped.

An estate being sold as aforesaid, the Collector shall affix a proclamation in his Cutchery, and as soon as possible in the Cutcheries of the Moonsiffs and Police Darogahs within whose jurisdiction some part of such estate may be situated, and also at the Cutchery of the Malgoozar of such estate, or on some conspicuous place in such estate, forbidding the ryots to pay rent falling due subsequent to the date therein specified and up to the date of the subsequent notice prescribed in Section 21. Sect. 16.

Appeal.

All sales under this Act are appealable within 15 days to the Commissioner; or within 10 days such appeal is receivable at the Collector's Cutchery, and shall be forwarded by him to the Commissioner who is competent to reverse the sale if he does not consider it to have been effected according to this Act, and who may award at the same time to the purchaser a moderate compensation from the proprietor, if the sale arose from the neglect of the latter. Such compensation should not exceed the

interest, at the current rate, of the deposit or balance of purchase money in the Collector's office. The Commissioner's order in such cases is final. Sect. 18.

Government may return the Estate.

The Commissioner is competent, on the ground of hardship or injustice, to suspend final orders in appeal, and to represent the case to the Sudder Board of Revenue, who may recommend to the Local Government to annul the sale, and the Local Government may do so on such conditions as may appear equitable and proper. Sect. 19.

Sale when final.

Sales not appealed shall be final at noon of the 30th day, the day of sale being reckoned the first day, or, if appealed and the appeal be dismissed by the Commissioner, sales shall be final from the date of the Commissioner's order if more than 30 days have elapsed since the sale, or if less, then at noon of the 30th day. Sect. 20.

Title of Purchasers.

On a sale becoming final, the Collector shall give to the purchaser a certificate (in a prescribed form) of his purchase, and the said certificate shall be deemed in any Court a good title to the estate sold, and the Collector shall also notify the transfer by a written proclamation in his Cutchery and in those of the Moonsiff and Darogah of the jurisdiction within which any part of the estate may be situated, and also in the Cutchery of the Malgoozar of the estate, or in some conspicuous place on the estate, and shall apply the purchase money first to the liquidation of the arrears due on the day of sale, or upon the day of the original sale, if the sale finally consummated be a re-sale, and secondly to the liquidation of all arrears debited to the Mehal in the public accounts of the district, holding the residue if any to be paid on demand to the late proprietors on their receipt, i. e. in shares proportioned to their recorded interest if such a distribution be recorded, or if not, then as an aggregate sum to all the proprietors on their joint receipt. If prior to that payment being made, the said residue be claimed by any creditor, such surplus shall not be payable to him, nor withheld from the proprietor by attachment, except under precept and in satisfaction of a decree. And if such surplus be thus paid to a creditor by order

of any Court, and a decree shall afterwards annul the sale, the proprietor shall not be restored to possession until the amount so paid be returned by him with interest. Sect. 21.

Purchase under a fictitious name.

Any suit, brought to oust the purchaser on the plea that the purchase was made for another person under the name of the purchaser, shall be dismissed with costs. Sect. 22.

Annulment of a sale.

The annulment of a sale by the Commissioner shall be notified by the Collector as required by Section 21, and the amount of deposit and purchase money shall be forthwith returned to the purchaser with interest thereon at the highest rate of the current Public Securities. Sect. 23.

Liabilities of purchaser for Revenue.

The certified purchaser of an estate under this Act shall be held answerable for all Government revenue subsequent to the day of sale; and in case of re-sales for all revenue falling due subsequently to the day of the original sale. Sect. 24.

Reversal by a Civil Court.

No sale under this Act, for arrears or other demands realizable in the same manner, can be set aside by any Court except on the ground of having been made contrary to the provisions of this Act; and except the contravention thereto be specified in the appeal to the Commissioner, and also the action in the Civil Court be instituted within one year of the date on which the sale became final. No person can contest the validity of a sale after receiving a portion of the purchase money. Provided however that no person be debarred, if he considers himself wronged by any circumstance connected with a sale under this Act, from his remedy by a personal action against the individual by whose act or omission he considers himself to have been wronged. Sect. 25.

Refund on reversal of sale.

If a sale be reversed by a final decree of a Court of Justice, the purchase money shall be refunded to the purchaser by Government with interest at the highest rate of the current Public Securities. Sect. 26.

Rights acquired by purchaser.

The purchaser, under this Act, of an estate sold for the recovery of its own arrears in the permanently settled districts of Bengal, Behar, and Orissa, and in Benares, shall acquire the estate free of incumbrances imposed upon it after the day of settlement, and shall be entitled, after notice given under Sections 9 and 10, Regulation V. of 1812,* to enhance at discretion the rents of all under tenures in the estate, and to eject the tenants thereof with the following exceptions.

1st. Tenures which were held istemraree, or moocurreree, at a fixed rent, more than 12 years before the Permanent Settlement.

2nd. Tenures existing at the settlement which have not been, or may not be, proved liable to increase of assessment on the grounds† stated in Sect. 51, Reg. VIII. of 1793.

3rd. Lands held by khoodkasht or kudeemee ryots at fixed rents, or at rents assessable according to fixed rules under the Regulations.

4th. Lands held under bonâ fide leases at fair rents, temporary or perpetual, for dwelling houses, manufactories, mines, gardens, tanks, canals, places of worship, burying grounds, clearing of jungle, or like beneficial purposes, such lands continuing to be used for the purposes specified in the leases.

5th. Farms granted in good faith at fair rents for a specified area by a former proprietor, for terms not exceeding 20 years, under written leases registered within a month from their date. Provided

* Viz. Notice served at the season of cultivation, on or before the month of Jeth, notifying the specific rent to which the ryot will be subject for the ensuing Fussily, or for the current Bengal year. Reg. V. 1812, Sect. 9.

If the notice cannot be served personally on the tenant it should be affixed at his usual place of residence.

† That is, on the grounds that the tenure is liable to increase of assessment according to the custom of the District, or according to the special conditions on which it was granted; or that the ryot, by receiving abatements from his jumma, has subjected himself to the liability of an increased demand, and that the land may afford to pay it.

that a written notice specifying the position, rent and area of the lands, was at the time given to the Collector, who might then have objected to the lease if he saw reason to think it would materially affect the security of the Public Revenue; and in that case should have notified his objections on the subject in his Cutchery, with the sanction of the Commissioner, within three months from the notice given to him. Provided also a purchaser be at liberty by a suit in Court, to set aside all such farms, if the same shall not have been granted in good faith and at fair rents. Sect. 27.

Rights of purchaser in districts not permanently settled.

The purchaser of an estate sold under this Act for its own arrears, in districts other than those mentioned in Section 27, shall acquire the estate free from all incumbrances imposed upon it after the time of settlement, and may annul all tenures which originated with the defaulter, or his predecessors, representatives or assignees of the original engager, as well as all agreements with ryots, or the like, settled by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager was, under the conditions of his settlement, competent to set aside or alter, except always bonâ fide leases of ground for buildings, gardens, tanks, canals, water courses or the like purposes, which leases shall continue in force so long as the land is duly appropriated to such purposes and the rent is paid. Nothing in this Act, shall entitle any purchaser to demand a higher rate of rent, from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former Malgoozar, except in cases in which such persons held their lands at a lower rate than would have been justly demandable, in consequence of abatements granted by the former Malgoozars by special favor or for a consideration, or in cases in which it may be proved that, according to the custom of the Purgunnah, Mouzah or other local division, such persons are liable to any further demand not interdicted by the Regulations. Sect. 28.

Local Government may reserve under-tenures.

The Local Government may, previous to a sale being actually made, direct it to be made subject to the leases, assessments or other incumbrances with which the estate may be burthened, or to such of them as shall

appear proper. In all such cases the Collector shall give notice of the conditions imposed by the Local Government at the time of putting up the lot for sale, and shall also give any further notification directed by the Local Government, but in case a sale so restricted shall not realize an amount equal to the arrear, or there appears ground to apprehend such may be the case at some future period, the Local Government may cancel the sale before it becomes final according to Section 20, and order another sale to be made without any other restriction but those specified in Clauses 1 to 5 of Section 27 of this Act. If after a restricted sale has become final the estate should again be sold for arrears, the Local Government may at all times direct it to be sold without any other restriction but those of Clause 1 to 5 of Section 27. In this case should the purchase money greatly exceed the price of the restricted sale previously effected, the Local Government may direct a portion, or the whole, of the difference to be paid to those whose interests reserved at the first, have been disregarded at the second sale. Sect. 29.

Purchase by a partner.

Except the co-partners of estates who may have saved their shares from sale under Sections 33 and 34 of Regulation XIX. of 1814,* any recorded or unrecorded proprietor or co-partner who may purchase in his own name, or in the name of another, the estate of which he is wholly or partly proprietor; or who by a re-purchase, or otherwise, may recover possession of the estate after it has been sold for arrears; and likewise the purchaser of an estate, not sold for its own arrears, shall acquire the estate subject to all its incumbrances at the time of sale. Sect. 30.

Arrears due to former proprietor.

Any arrears of rent, due at the date of sale to the defaulter from his tenants, shall be recoverable by him in any legal mode except distraint. Sect. 31.

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* That is, by paying their share of the arrears before the sale takes place. This supposes the estate to be undergoing a regular division at the time. Sect. 5.

Contempt.

Any Collector, or other officer exercising the power of Collector in respect to sales, shall be competent to punish a contempt in his presence in open Cutchery by a fine, not exceeding 200 Rupees, commutable if not paid to imprisonment in the Civil jail for a period not exceeding one month. The Magistrate shall carry the sentence into effect. Any such sentence however shall be appealable to the Commissioner whose decision shall be final. Sect. 32.

A default to make good a bid by the deposit required in Section 15 will be held a contempt. Sect. 33.

Operation of the Act.

This Act is applicable only to the districts of the Bengal and Agra Presidencies subject to the general Regulations. Sect. 34.

Date of operation.

This Act shall have effect from the 1st January, 1842. Sect. 35.

Sale of Putteedaree Estates for Arrears.

Act I. of 1841, Putteedaree estates.

A Putteedaree Estate in this Act, is held to be an estate which consists of two or more separate portions or Puttees, or of which there may be different proprietors possessed of separate properties, and holding direct of the Government, but not parties in their own names to the contract with the Government for the payment of the public revenue. The proprietor who is a party in his own name is called a Lumberdar, and the proprietor who is not a party in his own name is called a Putteedar. Sect. 2.

Modes of duress against Putteedars.

The following modes of duress may be enforced against all Putteedars, whose tenure and interest may have been defined by a settlement formed according to Regulation VII. of 1822, as modified by Regulation IX. of 1833, whether every such Putteedar be in sole occupation of his Puttee, or hold it in common with others. Sect. 3.

1st. Issue of Dustucks in the same manner, and under the same limitation as authorized by the rules in force for Lumberdars.

2nd. Arrest, detention, imprisonment, distraint and sale of personal property, as now authorized to be enforced against Lumberdars.

3rd. Transfer of the defaulting Puttee in perpetuity to the members of any other puttee which may not be in arrear.

4th. Annulment of the settlement as regards the defaulting puttee, and lease thereof to the members of any other puttee which may not be in arrear, or to a stranger, for any term not exceeding fifteen years.

5th. Sale of the defaulting puttee by public auction, in which case the members of the remaining puttees, who may not be in arrear, are authorized to bid.

Right of pre-emption of a Putteedar.

On the sale by public auction of any puttee, if the lot shall have been knocked down to a stranger, any Putteedar or other member of the Coparcenary, not himself in arrear, may take the puttee for the sum last bid, provided he does so on the day of sale before the Collector leaves the office, and fulfils all the other conditions of the sale. Sect. 4.

The above methods shall be employed by the Collector under such limitation as Government, or other superior Revenue authorities shall see fit to prescribe or enforce. Sect. 5.

Sale by Auction.

The sale of a puttee by public auction shall be effected, with respect to the notice to be issued, authority to be obtained, and mode of conducting the sale, like that of an entire mehal, and the auction purchaser will become the absolute proprietor of the puttee, save and except the rights of those ryots who have a right to the permanent occupancy of their lands, and whose rates were adjusted and recorded at the last settlement. Sect. 6.

Lease of a Puttee.

In case of lease or temporary transfer of a puttee under this Act, no member of that puttee shall be entitled to cultivate therein any land during the term of such

lease or transfer; nor in case of sale to hold or cultivate therein any land from and after the following month of Bysakh, unless the said member shall first execute a written engagement to pay rent at the rate demanded by the purchaser or transferee. If the parties should not agree as to the rate, the Collector may cause the same to be fixed by a Jury of the neighbourhood under Section 5 to 10 of Regulation IX. of 1833. Sect. 7.

Arrear due from each Puttee.

A copy of the Jumma Wassil Bakee and detailed Kuteonee of the Tuhsildar signed and sealed by him, and countersigned by the Canoongoe and Putwaree, exhibiting in detail the amount paid by, and arrear due from, each puttee, shall be sufficient evidence of the arrear due from that puttee, and these papers shall be filed with the Collector's proceedings. Sect. 8.

Possession to Purchaser.

The Collector is authorized to give possession to purchasers and transferees in the mode authorized by Clause 3, Section 23, Regulation VII. of 1822. Sect. 9.

Rights reserved by Government.

Nothing in this Act shall bar the right of Government, to hold the entire body of proprietors, and the entire estate, responsible for the whole jumma under existing Regulations.—In such a case, in modification of Regulation XI. of 1822, the entire proprietary rights of every member of the coparcenary shall be annulled and forfeited. Sect. 10.

The Governor General in Council may extend the provisions of this Act to any District although not settled under Regulations VII. of 1822, and IX. of 1833. Sect. 11.

SECTION V.

Division of Estates.

On the death of the proprietor of an estate who leaves several heirs, his estate must either be held by them in joint tenancy, that is, each

receiving his share of the produce and paying his share of the tax due to Government, or the estate must be divided into as many portions as there are heirs.

Joint Tenancy.

It generally happens in a case of this nature that the heirs continue, for sometime at least, to hold the estate in joint tenancy. This, however, is a kind of tenure liable to many objections and which seldom continues long without creating disputes. If the proprietors would appoint from among themselves a manager of the property, who would pay the tax to Government and divide the excess of produce among the part proprietors of the estate, a joint tenure might not be particularly objectionable. But in many instances joint-tenants do not trust each other sufficiently to follow such a course: they make some arbitrary division between themselves, each considering a certain number of ryots as his own, collecting the rents due from them, and paying his share of the Government revenue. If, however, one of them fails in paying his portion of Government revenue, it becomes necessary to determine how the arrear is to be realized by the Collector.

Joint responsibility of every part of an estate.

When an estate, sometimes including several villages, is assessed by Government *as a whole*, every part is considered as mortgaged for the payment of the revenue. The proprietor of such an estate, has no right or power to alienate any part of it so far that it shall not be liable for any portion of the tax which he agreed to pay for his estate. Suppose the estate was assessed at a thousand rupees, and suppose the Zemindar gave away on his own authority to a friend of his one-third of that estate, it is clear that the security of the Government revenue of a thousand rupees, would no longer be the same if they acknowledged as valid the alienation alluded to. If the Zemindar for instance has no other property, and he, fraudulently or ignorantly, thus gives away or sells a portion of his estate, it may be that the remaining part would not be able to pay the revenue, or that, if sold for arrears, the whole balance would not be realized by the sale, and the Government would thus be a loser.

The same thing would happen if the Zemindar were allowed, instead of giving or selling part of his estate *rent free*, to give or sell part of it with a portion, *fixed by himself*, of his tax laid upon it. In this case, what security would there be that the proportion of the assessment, fixed on the part of the estate sold, was not much more or much less than it should be in proportion to the extent or value of that part? The Government would be exposed to lose some part of its right on the alienated portion in the former case, and on the other portion in the latter.

Division of an estate.

It thus appears clear that Government has a direct and material interest in not permitting any estate, which has been assessed as a *whole*, to be divided without taking proper care that each subdivision is made to bear its proper share of revenue. That is, the division may indeed take place among the proprietors, and be binding among themselves with respect to each other, but so long as Government has not become a party to it each portion continues to be mortgaged for the whole of the Government revenue, so that if at any time it should be necessary to resort to sale, as in the case above supposed, for the payment of arrears, the whole estate would be sold without distinction of those who had paid for their shares or not, the only exception being where a proprietor's share is distinctly registered in the Collector's Rent Roll. For instance if A's name is registered as proprietor of $\frac{1}{8}$ of the estate, and he has, on an application made by himself or his partners for a division, been allowed to pay his two annas of the revenue separately, his share is exempted from sale under the above circumstances in case he has paid up his portion of revenue.

Portion of an estate.

Whenever the proprietors of an estate wish to have their interests separated from each other, they must apply to the Collector for a partition or batwarrah. The object of having the batwarrah effected through the Collector, is that he may examine every portion of the estate, ascertain its value, and then divide the estate and the revenue, so that the revenue assessed upon it be allotted to the different parts in proportion to the value of each.

If all the joint proprietors of an estate, wishing to have it divided, make an application for that purpose to the Collector, that officer sends an Ameen to examine, measure and value every part of the estate, after which on his report, or after any further inquiries which may appear necessary, the Collector apportions the revenue and orders the division. Reg. XIX. 1814, Sect. 4.

Should not all the joint proprietors come forward to apply for a division, but only one or two desire to have their shares separated, the latter are to present a petition to the Collector, who then publishes an advertisement notifying to all parties concerned the application he has received, and specifying that he shall proceed to make the division after 15 days from the date of that notice, unless any one in possession of the estate, or of any part thereof, deny the right of such claimant, or claimants, to the share they claim. In this case the Collector is not to proceed to the division until the disputed title has been established in a Court of Justice, or admitted by the parties who disputed it. Ditto.

Whenever the division has been commenced upon, which supposes the proportional right of each proprietor to be ascertained, each may be allowed to pay his tax separately, so that if some of the proprietors neglected to do so, their shares would be sold, while those of the partners who had paid up their dues would be saved. Ditto, Sect. 33.*

Separation of Specific Mehals.

There is a peculiar case of division of estates different from the one above explained. It sometimes happens that the proprietor of an estate sells out a specific part of it, as a village, or some particular fields, the proportional value of which to the whole estate is not known. Supposing the purchaser of the specific portion to apply for a butwarrah, a difficulty occurs with respect to the payment of revenue, pending the butwarrah, which did not exist in the preceding instance. To ascertain the proportional value of the specific mehal to the whole estate,

* For partition of lands in Putteedaree estates see S. B. W. P. Cir. Ord. No. 3.

it is necessary to measure and survey the whole estate including the portion alluded to. If the estate fall into arrears before this be done and the butwarah be completed, and if the proprietor of the specific mehal be willing to pay his share of the arrear and save his property from sale, how is that share to be determined?

From the principles according to which estates have been permanently settled, that is, from the proportions of the gross produce which were assumed as the right of the Government and the right of the Zemindar, it is taken for granted that the share of the latter cannot be less than 15 or 20 per cent. of that produce, and that consequently, if the produce of the specific mehal were known, 80 or 85 per cent. of it might be provisionally fixed as the amount of malgoozarce the mehal will have to pay to the Government, and by taking the proportion of that assumed jumma to the jumma of the whole estate, the respective proportions of the balance to be paid by the specific mehal and the remaining part of the estate may be calculated.

The rule therefore in this case is this: a summary investigation is held with regard to the absolute produce of the specific mehal, and on the proprietor of that mehal, tendering his share of the balance in the proportion of that produce, minus 15 or 20 per cent. to the jumma of the whole estate, the Collector may exempt his mehal from sale. The amount tendered according to this rule will generally be more than the specific mehal will ultimately have to pay for its share, but whatever excess may thus have been advanced, with the view of saving the specific portion of land, will have to be repaid to the proprietor of that land by the proprietor of the remaining part of the estate, when the butwarrah is over. Ditto, Sect. 34.

SECTION VI.

Registry of Lands.

Registry of lands.

As estates change possessors by sale, succession, &c. or are divided into several portions, each of which becomes a separate estate; or, as sometimes several estates are united into one, and it is necessary for the security of private rights and greater facility in the realization of the

Government revenue to keep note of all these changes, the following rules have been enacted for that purpose.

Quinquennial Registers.

The Collectors are required to prepare, every five years, a Register in the English and native languages, of all the estates in their respective Zillahs, the proprietors of which pay revenue to Government. Reg. XLVIII. 1793, Sect. 2. Benares, XIX. 1795, Sect. 2. Ced. Pr. XLII. 1803, Sect. 2.

The names of the estates in each Zillah shall be arranged in alphabetical order. Ditto, Sect. 3.

Shares bearing a definite proportion to the original estate, and whose proprietors are allowed to pay their revenue separately, shall be stated separately under the head of the original estate. Ditto, Sect. 7.

If any specific lands, or villages, in an estate, not forming a *definite* proportion of the estate, are transferred by public or private sale, and the new proprietor is allowed to enter into any separate engagement with Government, his land or village shall not be entered under the head of the original estate, but shall be considered an original and distinct estate. Ditto.

Under the head of each estate, shall be specified the names of all the pergunnahs, and the number of villages, in it. Ditto.

Pergunnah Registers.

Besides the Quinquennial Registers, Pergunnah Registers, one division relating to Malgoozaree, and the other to lakheraj lands, are directed to be prepared. Reg. VIII. 1800, Sect. 3. Ced. Pr. XLII. 1803, Sect. 32.

The Malgoozaree part of the division shall contain the following particulars: 1st. name of estate; 2nd. name of proprietor or proprietors; 3rd. a detailed statement of villages or other subdivisions; 4th. measurement of each when ascertained; 5th. gross rent of any village when ascertained. Ditto.

The lakheraj part of the Register shall comprise: 1st, the denomination of the tenure with the No. under which the estate may have been entered in the Register of lakheraj lands, prescribed by Regulations XIX. and XXXVII. of 1793, and Regulations XLI. and XLII. of 1795; 2nd, the name of the holder or holders of the tenure; 3d, a detailed statement of villages; 4th and 5th, the measurement and gross rent when ascertained. Ditto.

The Collectors are not to require from the proprietors of malgoozaree or lakheraj lands, any papers relative to the measurement of lands or the amount of rents; this information shall be entered in the Register only when obtained by public measurements, in attachments, Khas collections, &c. Ditto, Sect. 7.—Ditto, Sect. 36.

The Courts, when having occasion to refer to the Quinquennial Registers, may require from the Collector the production of the original Register, or an attested copy of such part as may contain the required information. Reg. VIII. 1800, Sect. 15.—Ced. Pr. Reg. XLII. 1803, Sect. 26.

Registers of intermediate mutations.

For the purpose of recording every transfer, division or union of estates, which may take place during the five years subsequent to the forming of each Quinquennial Register, Collectors shall prepare a General and a Pergunnah Register of Intermediate Mutations in landed property, each leaf of which is to be signed by the Judge of the Zillah. The Collectors shall enter in this Register all divisions, transfers or unions of estates which may take place during the five years subsequent to the formation of the last Quinquennial Register, and all the particulars necessary for the preparation of the next Register of this last description. Reg. XLVIII. 1793, Sect. 16.—Ben. Reg. XIX. 1795, Sect. 16.—Ced. Pr. Reg. XLII. 1803, Sect. 16.

To facilitate reference, as well as to facilitate the preparing of the next Quinquennial Register, the Collectors shall insert in the present one, in red ink, opposite to the name of the estate in which any alteration may have taken place, the number of the page in the Re-

gister of Intermediate Mutations, in which the alteration may be noted; and at the end of the note in the latter the number of the corresponding page of the Quinquennial Register shall be entered. Ditto, Sect. 19.—Ditto, Sect. 17.—Ditto, Sect. 19.

For the preparation of the Register of Intermediate Mutations, the Collectors shall be furnished by the Courts with copies of all decrees they may pass or enforce. Ditto, Sect. 24.—Ditto, Sect. 22.—Ditto, Sect. 24.

In cases in which lands are sold at their own Cutcheries, Collectors have in their own hands all the necessary information necessary for the mutation to be made. Ditto, Ditto.

In cases in which estates may be divided or united, they will likewise have in their own hands the requisite information, since a division or union of this kind must, according to the Regulations take place under their superintendence. Ditto, Ditto.

By Section 10, Regulation X. of 1793, transfers of estates, or portion of estates, must be notified to the Collector before the name of the new proprietor can be inserted in the Register. Ditto, Ditto.

The keepers of the Register of Deeds are by Regulation XXXVI. of 1793, to furnish the Collectors with the particulars of all transfers of landed property that may be entered in their Registers. Ditto, Ditto.

Proprietors and farmers are bound to furnish, any information that may be required by the Collectors for the preparation of the Registers alluded to.

Whenever any new village may be established upon lands paying revenue to Government, notice is to be given to the Collector by the proprietor, or farmer, of those lands. Reg. VIII. 1800, Sect. 20.—Ced. Pr. Reg. XLII. 1803, Sect. 40.

All changes in the property of Malgoozar or Lakheraj estates, whe-

ther from inheritance, purchase, gift, or otherwise, are to be notified to the Collector by the new proprietors. The Collector shall verify the truth of such notifications before making in the Register the prescribed entries, which however are not to affect the rights of the parties, whose names are thus entered or have been omitted. Ditto, Sect. 21.—Ditto, Sect. 41.

CHAPTER II.

OFFICERS OF REVENUE.

Officers of Revenue.

Officers are appointed for the proper superintending of the collection of the Government Revenue. As their chief duties relate to the revenue derived from land, it will be proper to give here a short account of those duties, and of the respective powers of each class of officers. Those officers are: 1st, Members of the Sudder Board of Revenue; 2nd, Commissioners of Revenue; 3rd, Collectors; 4th, Deputy Collectors and Tehseldars; 5th, Native Ministerial Officers; 6th, Putwarees; 7th, Canoongoes.

I. Sudder Board of Revenue.*

The Calcutta Sudder Board of Revenue is the highest Revenue Court for Bengal, Behar and Orissa; and that of Allahabad for Benares and the Western Provinces. Each consists of as many Members as the Governor General in Council may appoint. Usually two or three Members. A single Member of the Board may exercise the powers of the Board in the unavoidable absence of his colleague or colleagues, but is not then to reverse the order of an officer immediately subordinate to the Board, without a reference to the other Member or Members; he may, however, be authorized by the Governor General in Council to do so under any circumstances.

When two Members of a Board differ on any question, the decision of the question shall be referred to a third Member, permanent or provisional, as the Government may direct. Reg. III. 1822, Sect. 5.

The Superintendence of the settlements, and of the collection of the revenue is vested in the Board.

The Board may summon a Collector to the presidency, fine him

* Reg. XXIV. 1817.—Reg. III. 1822.—Reg. X. 1831.

to the extent of one month's salary, and suspend him. But in every such instance the order should be reported to the Governor General in Council. Bengal Reg. II. 1793, Sect. 31.—Benares Reg. V. 1795, Sect. 27.

The Board may require the personal attendance of any proprietor, or farmer of land, to adjust any settlement, examine his accounts, &c. provided the personal attendance of the party shall appear indispensably necessary. Ditto, Sect. 33.—Ditto, Sect. 29.

Remissions of Revenue.

No remissions of revenue, or balances, are to be granted without the special authority of the Governor General in Council. Reg. II. 1793, Sect. 38.

The Board may grant temporary suspensions of revenue, but must report the same without delay to the Governor General in Council, with its reasons for the measure. Ditto. Sect. 42.

Tuccavy.

The Board is also authorized to grant advances, or Tuccavy, to proprietors or farmers of land, to the extent of five per cent. on the revenue payable from the land to Government, reporting all such instances to the Governor General in Council whose previous sanction must be obtained for any larger advance. Ditto, Sect. 44.—Ben. Reg. V. 1795, Sect. 36.

Loss of land.

In cases in which, since the conclusion of the settlement, the rivers have carried away so much of the land as to disable the Zemindar, or farmer, from paying the stipulated revenue, the Collector is to report the circumstance, after minute inquiry, to the Board, through which the orders of the Governor General in Council will be issued to him, affording such relief to the parties as may appear necessary. Ben. Reg. V. 1795, Sect. 35.

Trading or Borrowing.

The Members of the Board are prohibited being connected with any trade, or borrowing* money from native revenue officers, or any person responsible for the payment of revenue. Reg. II. 1793, Sect. 46.

* See further the article Collectors.

II. Commissioners of Revenue.

Commissioners are placed at the head of Divisions, generally consisting of three or four districts, with a power of control over all the Collectors and other revenue officers of that Division, but are themselves subject to the control and direction of the Sudder Board. Reg. I. 1829.

Sales of lands for arrears of revenue under Act XII. of 1841, are appealable within 15 days to the Commissioner: the petition of appeal may be received in the Collector's office within the ten days which follow the sale, but, if presented between the 10th and 15th day, it must be brought forward directly in the Commissioner's Court. The Commissioner may reverse the sale if he finds it was not effected according to law; or if it should be legal, he may on the ground of hardship or injustice suspend final orders in appeal, and represent the case to the Sudder Board of Revenue, who may recommend to the Local Government to annul the sale, and the Local Government may do so on such conditions as will appear equitable and proper. Sect. 18 and 19, Act XII. of 1841.*

Sales of lands in satisfaction of Decrees (except sales of orchards, gardens, houses, and small portions of rent-free lands) cannot take place without the authority of the Commissioner, who is addressed on the subject by the Civil Court, and issues orders to the Collector. Reg. VII. 1825, and Reg. I 1829.

The division and settlements of estates are carried on by the Collector, under the orders of the Commissioner, who is expected to control his proceedings.

In the Lower Provinces Commissioners have the power to confirm the settlements of Invalid Jagheers in perpetuity,† Ryotwar, or other settlements up to twenty years, and Temporary Settlements with others than the persons entitled to a Permanent Settlement (these

* See Chapter I. Sect. 4. Part 2d where in Act XII. of 1841, the power of Commissioners with regard to sales for arrears is more fully explained.

† S. B. C. O. 22nd December, 1837, No. 82.

being recusant,) for ten years. These confirmations, however, are subject to a special appeal to the Sudder Board of Revenue,* all other settlements are sent to the Board, by whom they are reported to Government who may confirm, reject, or modify them.

In the Upper Provinces the Commissioners have not the same right of confirming settlements; their duties with regard to these are to control the proceedings of the Collectors in every possible way.

"It is now openly avowed," says the Sudder Board of the Western Provinces, "that much is left to the discretion of the settlement officer, and, in order to ensure as far as can be the proper exercise of that discretion, the result of this officer's proceedings are arranged in the most lucid manner, and another officer of greater experience and mature judgment is provided, whose special duty it is to examine these proceedings, test their grounds, and satisfy himself of their propriety." Sudder Board of Revenue Western Provinces. Circular Order, No. 1, para. 246.

III. Collectors.

The duty of Collectors is to collect the land revenue and make settlements,† to superintend the division of landed property paying revenue to Government, sell lands for arrears of revenue, and collect the tax on spirituous liquors. Reg. II. 1793, Sect. 8.—Ben. Reg. V. 1795, Sect. 7.—Ced Pr. Reg. XXV. 1803, Sect. 7.

Resumptions of lands.

Collectors should report to the Board, or the controlling authority, for orders, any tenure which they may have reason to believe is held free of assessment, or at an inadequate jumma, without a valid title. Reg. II. 1819, Sect. 5.‡

Collectors have no authority to resume lands held free of assess-

* S. B. C. O. 27th October, 1837, No. 78.

† Separate officers have generally, within the last ten years, been appointed, with the powers of Collectors, for making settlements.

‡ This and the two following rules have been modified by Reg III. of 1828—see further.

ment under an invalid title, without the sanction of the Board of Revenue. Reg. IX. 1825, Sect. 5, Cl. 8.

Should the lands be resumed by order of the Board the holder may recover his lands, if improperly resumed, through a regular suit. Ditto.

In the jurisdiction of a Special Commissioner under Regulation III. of 1828, a Collector may investigate cases of free tenure without the sanction of the Board, and, if the judgment be for assessment, the party may appeal to the Special Commissioner within two months, or, after two months on sufficient grounds being shown for the delay. Reg. III. 1828, Sect. 4, Cl. 2.

If the Collector decides against assessment, his proceedings should be transmitted to the Commissioner of Revenue, who may, if he thinks proper, appeal within one year to the Special Commissioner against the Collector's order. Cl. 4.

The decisions of the Special Commissioner are final except in cases which, if decided by the Sudder Dewanny Adawlut, would be appealable to the King in Council. Cl. 5.

Warrants, Accounts and Records, Lending and Borrowing money.

All issues from the treasuries of Collectors are to be made under a warrant signed by them.* They are to give monthly receipts for all sums paid to them on account of revenue. Ditto, Sect. 12.—Ditto, Sect. 12.—Ditto, Sect. 11.

Collectors are to be careful that the accounts and records of their respective Zillahs, are preserved in good order and kept complete. Ditto, Sect. 20.—Ditto, Sect. 20.—Ditto, Sect. 19.

Collectors are prohibited employing on their establishments, any of their native creditors, or any of the relatives or dependants of those creditors. Ditto, Sect. 13.—Ditto, Sect. 13.—Ditto, Sect. 12.

* This right is also exercised by Uncovenanted Deputy Collectors, when placed in charge of a treasury by order of Government.

Collectors, as well as Judges, Magistrates, and other Covenanted Servants, are prohibited lending money, directly or indirectly, to any proprietor, farmer of land, or ryot, or their sureties. Reg. XXXVIII. 1793, Sect. 2.—Ben. Reg. XLVIII. 1795, Sect. 2.—Ced. Pr. Reg. XIX. 1803, Sect. 2.

They are equally prohibited borrowing money from the same persons, or from any one accountable to them. Reg. VII. 1823, Sect. 2.

Collectors, or their Assistants, must not be concerned in any commercial transactions whatever. Reg. II. 1793, Sect. 10.—Ben. Reg. V. 1795, Sect. 10.—Ced. Pr. Reg. XXV. 1803, Sect. 9.

Collectors, Assistants, or their Dewans, or any other natives in the employ of the Collector or Assistant Collector, are prohibited holding farms directly or indirectly, or being concerned in the collection, or payment, of the revenue of any lands either as farmer, surety or otherwise, in the Zillah; and the same persons are equally prohibited purchasing, directly or indirectly, any land which the Collector may dispose of at public sales, under the penalty of forfeiting the property. Reg. II. 1793, Sect. 15.—Ben. Reg. V. 1795, Sect. 15.—Ced. Pr. Reg. XXV. 1803, Sect. 14.

Charges against Collectors.

Some of the following rules might at first appear singular to native readers, as they suppose that suits in which the Government is a party, that is, in which an individual complains of some injury done him by the Government, may be tried by Courts in which officers of that very Government preside. One might well feel disposed to doubt that officers so situated would be impartial judges, but in fact both theory and experience show that Anglo-Indian judges, high and low, can act with independence even when opposed to the Revenue Authorities. The Supreme Council enacts laws for the collection of revenue, and a certain class of officers is appointed to carry those laws into execution, but at the same time to another class of officers is committed the charge of preventing or punishing any breach of those laws, even when its object is the interest of the public revenue. The Government do not wish that their revenue officers, in the fervor of their zeal, should ever go beyond the laws enacted for their guidance.

and if they do so, and the fact be properly established in a Court of Justice, the Supreme Authority stands a silent and impartial spectator of the trial, even when the Civil Court orders a refund of some thousands of rupees from the Public Treasury, where they are found to have been illegally entered. The general impartiality of the Civil Courts is duly appreciated by the people, as clearly appears from the number of suits of this kind filed in those Courts.

If a charge be made in the Judge's Court against a Collector, the Judge transmits the petition to the Board of Revenue,* who decide whether redress shall be granted by the Government, or whether the complainant shall be left to prosecute his suit in the regular course of law. Reg. II. 1814, Sect. 3.

If the Board of Revenue be of opinion that the party has been really aggrieved, and is entitled to redress from Government, they submit a report on the subject to Government stating the nature and extent of the relief to be granted. Ditto.

If on the contrary they are of opinion that the party is not entitled to redress from Government, and should be left to prosecute his suit, they report this to the Judge, stating whether the suit shall be defended on the part of Government, or concerns the Collector only in his individual capacity. The Judge then allows the case to be filed and tries it in due course; the institution of the suit being considered to date from the day of the first petition being presented. Ditto.

Imputations on the Conduct of Collectors or other officers.

The Sudder Dewanny and Nizamut Adawlut, the Sudder Board of Revenue or Board of Customs, being of opinion that grounds exist for a regular inquiry into the truth of any imputation of official misconduct on the part of one of their subordinates, may submit the grounds of their opinion to Government for orders. Reg. XXVI. 1839, Sect 2.

* The Commissioners of Revenue have now the same powers as were formerly vested in the Boards of Revenue. Reg. I. 1829, Sect. 4.

The Sudder Dewanny Adawlut, or the Board, should not act on such a charge unless it be made on oath. Sect. 5.

If the Government concur in opinion as to the necessity of an investigation, one or more Commissioners is, or are, appointed to conduct it. Sect. 9.

Government may order the officer concerned to be prosecuted before a regular Court, but, whatever orders may be passed by Government, individuals considering themselves aggrieved by any public officer may prosecute him according to the ordinary course of law. Sect. 20.

IV. Deputy Collectors and Tehsildars.

The office of Deputy Collector under Reg. IX. of 1833, is open to qualified persons of any class or religious persuasion. They are in all respects subordinate to the Collector, and are required to perform all duties assigned to them by that officer. Their proceedings are recorded in their own names, subject to the revision and control of the Collector, and appealable to the superior authorities. Reg. IX. 1833, Sects. 17, 20, 22.

A Deputy Collector is not removeable but for misconduct and with the sanction of the Governor General in Council. Ditto, Sect. 25.

Tehsildars may be vested with the charge of the police, and the collection of the public revenue, in Benares and the provinces ceded by the Nawab of Oude. The nomination of persons to fill vacancies in the office of Tehsildar, is made to Government by the Collectors, through the Board of Revenue.* Reg. V. 1804, Sect. 10.

V. Ministerial Officers.

The Sudder Boards of Revenue† have the power of appointing and removing all the native ministerial officers under them, such as Tehsildars, Moonshees, Vakeels, &c.

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* Now through the Commissioners of Revenue. Reg. I. 1829.

† Now the Commissioners. Reg. I. 1829.

The officers employed by the Collector, whose salaries do not amount to ten rupees per mensem, may be removed by him on proof of misconduct, or for other sufficient reason, and a successor appointed, without reference to superior authority. Reg. V. 1804, Sect. 14.

If a Collector be of opinion that one of his ministerial officers, whose salary amounts to ten rupees or more, should be removed, he should submit a report on the case to the Commissioner.

When an actual vacancy occurs, the Collector should propose to the Commissioner a proper person to succeed to the vacancy. Ditto, Sects. 16 and 18.

If a ministerial officer has been guilty of gross misconduct, and it be expedient to remove him immediately, the Collector may suspend him, nominating, if necessary, another person temporarily to officiate in his place, but he should report this without delay to the Superior Authority. Ditto, Sect. 17.

Collectors are prohibited conferring on their public officers any private trust relating to their personal concerns. Reg. II. 1793, Sect. 13.

Collectors are not only prohibited deriving any personal advantage from their fixed establishments of native officers, but also making any alteration in the distribution of the salaries of such officers without express sanction from Superior Authority. Reg. V. 1804, Sect. 23.

Khazanchees, Tehsildars, and other native officers entrusted with public money, are strictly prohibited making use of such money for their own advantage, or that of any other individual. Reg. II. 1813, Sect. 2.

VI. Putwarees.

Every village paying revenue to Government, should have a separate Putwaree, except in cases where a deviation from this rule may be sanctioned by the Board. Reg. XII. 1817, Sect. 3.

When a vacancy occurs in the office of Putwaree, the Zemindar is

to nominate a successor according to the custom of the village, and to report his nomination to the Collector within one month. Ditto, Sect. 7.

If the Collector should see any reason to object to such a nomination, he is to report upon it to the Commissioner who will decide whether the Zemindar shall be required to nominate another person. Sect. 8.

When a Zemindar may wish to remove a Putwaree, he is to state his reasons for this to the Collector, who will authorize the removal or not as may appear proper. Sect. 12.

If a Collector sees ground to remove a Putwaree, he is to state his reasons to the Commissioner who will authorize the removal or not as may seem proper. Sect. 15.

The duties of a Putwaree are to keep the usual registers and accounts of the village, or any other accounts which may be required by the Board of Revenue or the Commissioner; and to deliver to the Canoongoe of the Pergunnah a copy of the said accounts, showing distinctly the produce of the Khureef and Rubee harvests. Sect. 17.

Village accounts should be kept in duplicate sets, one for the office of the Putwaree and the other for deposit in the Collector's office; and, where the office of Canoongoe exists, a third copy should be deposited in it. Reg. IX. 1833, Sect. 12.

The above several accounts must be furnished in such a mode, and at such periods, as the Board may direct. They are open to the inspection of every person concerned desirous of examining them. Sect. 13.

Any Zemindar or other land holder who may refuse or neglect to conform to the above rule, should be deemed incompetent to oust a ryot, or sue him in any Court, for non payment of rent or any other breach of engagement. Sect. 14.

The Collector may summon any Putwaree, and call upon him to produce his original accounts, and may examine him on oath with regard to such accounts and all matters regarding the lands, produce, rents, collections and charges of his village.* Reg. XII. 1817, Sect. 22.

A Putwaree who may fabricate, falsify or mutilate the accounts of his village, or furnish the Canoongoe or Collector with false accounts, will be held guilty of forgery and punished according to the Regulations. The same rule will apply to those who may cause or procure such a forgery. Sect. 27.

VII. Canoongoes.

Canoongoes shall be appointed in every Pergunnah. C. and C. Provinces, Reg. IV. 1808, Sect. 2.—Behar, Reg. II. 1816, Sect. 2, and Reg. II. 1817, Sect. 2.—Bengal, Reg. I. 1819, Sect. 4.

The duties of Canoongoes are:

1. To keep a counterpart Jumma Wasil Bakee, or account of the collections of Tehsildars from settled estates, and from lands held khas or under attachment.

2. To keep an account of all lands held under rent-free tenures, and to report to the Collector all escheats of such lands to Government.

3. To keep a list of the Putwarees of each village and a register of pottahs granted by Zemindars to their under tenants.

4. To keep a register of all transfers of estates by sale, mortgage, lease, or otherwise, and to attest such transfers at the request of the parties.

5. To compile information regarding boundaries of pergunnahs

* For the detail of the accounts which a Putwaree is required to prepare, see C. O. No. 3, Sects. 7 and 9.

and estates, number and names of villages, rates of articles of produce, and customs of the pergunnah.

6. To assist at all measurements of lands, whether undertaken by order of Government or by the landholders and ryots, and to record the same.

7. To prepare and to keep their accounts in the manner prescribed by the Board.

8. To report to the Collector the death of each Malgoozar, the names of his heirs, and to keep a register of succession to lands*— (vide the above quoted Regulations.)

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* For the duties imposed on the Canoongoes by the Board in the Upper Provinces, see S. B. C. O. No. 3, Sect. 7.

CHAPTER III.

COURT OF WARDS.

Object of the Court of Wards.

MANY instances having occurred of Minors, Females, or other proprietors of land disqualified to manage their own affairs, being reduced to ruin by the misconduct of the agents to whom the management of their concerns were committed, and in many cases minors having been brought up in ignorance and dissipation by those who were entrusted with their care and education, the Governor General in Council constituted in 1793 the Board of Revenue a Court of Wards, to superintend the conduct of the managers of disqualified proprietors, and to see that Minors receive an education suitable to their rank.

The superintendence of the Court of Wards applies to the persons and estates of Zemindars, proprietors of entire estates* paying revenue immediately to the Government, who may be disqualified for the management of their own lands, in consequence of Minority, Idiotcy, Lunacy, Contumacy, or Notorious Profligacy of Character; as well as to those of Females who may not be deemed by the Governor General in Council competent to manage their own property. Reg. LII. 1803, Sects. 1 and 2.—Reg. X. 1793, Sect. 2.

Jurisdiction of the Court of Wards.

The ordinary jurisdiction of the Court of Wards, however, extends only to such estates as devolve on disqualified landholders in the regular course of inheritance and not by purchase or gift; but these may also be

* In cases of minor proprietors of undivided estates, whose parents have died without nominating guardians to them, the Judge may nominate a Guardian. The person thus selected should not be the legal heir of the Ward. Reg. I. 1800, Sects. 1 and 2.

Such a Guardian is to have a vote in the election of the Manager of the estate in question, which will be liable to be sold for arrears like any other estate. Ditto, Sect. 6.

placed under the management of the Court of Wards by the Governor General in Council; and all estates committed to the charge of that Court, shall be exempt from sale for arrears of revenue accruing while under its management. Reg. III. 1796, Sect. 2.

Estates exempted from sale for arrears.

If the proprietor of an entire estate be reported by the Collector to be a minor, the Board shall take the estate under their charge, reporting the circumstance to the Governor General in Council; but if the proprietor, or any one on his behalf, should deny his being a minor, that person, or the proprietor himself, may represent the circumstance to the Civil Court of the District, which shall forward the representation to the Sudder Dewanny Adawlut, and that Court shall issue a precept to the District Judge, to call the proprietor and ascertain his age by proper evidence. Reg. X. 1793, Sect. 5.—Ced. Pr. Reg. LII. 1803, Sect. 9.

Minors.

If a proprietor be deemed disqualified on the ground of lunacy, idiocy, or other infirmity, the Board of Revenue are to order the Collector to represent the circumstance, through the Government Vakeel, to the Zillah Judge, who shall transmit a copy of the representation to the Sudder Dewanny Adawlut. This Court shall issue a precept to the Judge to have the proprietor brought before him, and to ascertain his actual state by ocular proof. After taking evidence on the subject, the Judge shall report his opinion to the Sudder Dewanny Adawlut which shall determine whether the disqualification be real or not. Ditto.

Lunatics, Idiots, &c.

Persons not born in a state of idiocy, but disqualified as lunatics, must be brought annually before the Judge, or oftener if he thinks fit, to ascertain whether they are restored to sanity or otherwise. Ditto.

If a proprietor be reported disqualified by the Collector on the ground of notorious bad character, the Board of Revenue shall instruct the Collector to make a representation to the Judge, who shall forward

Notorious bad characters.

it to the Sudder Dewanny Adawlut, and that Court shall issue a precept to the Judge to examine the case and report upon it. After receiving his report, the Court shall submit its opinion of the case to the Governor General in Council, who will, if this be recommended, order the estate to be placed under the Court of Wards. Ced. Pr. and Ben. Reg. LII. 1803, Sect. 9.

Any person disqualified for minority, lunacy, idiocy, or notorious bad character,* and who may deem the ground of his disqualification removed, may represent the circumstance to the Judge, who shall forward the representation to the Sudder Dewanny Adawlut, by which a precept shall be issued to the Judge to enquire into the case and report the result. The Sudder Dewanny Adawlut shall then decide the case, and report its decision to the Governor General in Council, who will, if so it be recommended, order the Court of Wards to restore the estate to the proprietor. Reg. X. 1793, Sect. 5. —Ced. Pr. Reg. LII. 1803, Sect. 9.

Managers of Wards' estates. Guardians of Wards.

The trusts of a Manager for disqualified proprietors, and of a Guardian to them, are altogether distinct, though they may be vested in the same person. When these trusts are vested in different persons, the Manager is to have the care of the estates real and personal; the Guardian the care of the person and maintenance, and (if the disqualified person be a minor) that of the education of the Ward. Reg. X. 1793, Sects. 6 and 7.—Ced. Pr. Reg. LII. 1803, Sects. 10 and 11.

Managers and Guardians, on receiving charge of any property, are to sign an exact inventory of the same, to be deposited in the treasury of the Collector. Ditto, Sect. 13.—Ditto, Sect. 19.

The trusts of Guardian and Manager may be united, if this should be thought desirable, in a person to whom the inheritance cannot possibly descend. Ditto, Sect. 30.—Ditto, Sect. 34.

* Bad character is not a ground of disqualification in Bengal.

The Managers are to be elected by the Collectors without regard to their being related to the Ward or not, but simply with reference to their qualifications for the trust. The nominations are subject to the approbation of the Court of Wards, and the nominees shall be required to give security for appearance during the continuance of their commission. Reg. LII. 1803, Sect. 12.

The Manager is to be rewarded according to the extent of his trust, and is to manage the estate as if it were his own, but, when acting for a proprietor under age not otherwise disqualified, he is not to grant any lease extending beyond the life of the proprietor, or to dispose of any part of the permanent property without the approbation of the Court of Wards. Reg. X. 1793, Sect. 16.—Ced. Pr. Reg. LII. 1803, Sect. 20.

Duties of the Guardian.

In electing a Guardian for the person of a minor, precautions have been thought necessary to secure, as much as possible, the life of the Ward. If the person of an infant were entrusted to a relation who is to inherit his property if he should die, the temptation to shorten his existence by neglect, and privation of necessary comforts, or any more direct ill-treatment, is one to which the legislator has not deemed it prudent to subject the Guardian.

The Guardian is to be elected in the same manner as the Manager, but the guardianship must, in no instance, be entrusted to the legal heir, or other persons interested in outliving the Ward; and female minors should have guardians of their own sex. Landholders, whose heirs are disqualified, may appoint Guardians to them by will, which appointments, however, are not to be deemed valid till sanctioned by the Court of Wards. Ditto, Sect. 21.—Ditto, Sect. 25.

Minors, Idiots, or Lunatics, alone require Guardians: other disqualified proprietors, and females, may themselves receive and disburse the allowance made for their maintenance. Ditto, Sect. 22.—Ditto, Sect. 25.

It is expected that some friend of the party will gratuitously under-

take the duty of Guardian, otherwise the allowance to the Guardian is to be deducted from the provision made for the maintenance of the Ward. Ditto, Sect. 23.—Ditto, Sect. 27.

Ten per cent. on the revenue assessed or realized, is fixed as the general allowance for the support of disqualified proprietors. Where this rate of allowance may be more than is necessary, the Collectors may reduce it; where it is insufficient they may increase it, if there be other disposable funds from lakheraj lands, or otherwise, belonging to the proprietor. In case of a reduction of allowance, or a surplus of income from any other cause, the said surplus is to be applied by the Manager to the benefit of the estate under his charge; or the Collector may have it applied, if he thinks fit, to the purchase of other property, or vested in Government securities for the benefit of the disqualified proprietor. Ditto, Sects. 12 and 13.—Ditto, Sects. 16 and 17.

Debts of Wards' Estates.

All just debts adjudged against the estates of disqualified proprietors, must necessarily be satisfied as far as may be consistent with the prior claim of the Government on account of Malgoozaree; such debts however are to be reported by the Manager to the Collector, and by the latter to the Court of Wards, previous to any payment by the Manager. Ditto, Sect. 19.—Ditto, Sect. 23.

Protection of Wards' interests.

Any person willing to undertake the cause of a disqualified proprietor may sue the latter's Guardian, or Manager, or the Collector, for fraud, provided he first gives security for the costs and any damages which may be awarded; and he shall be entitled to any fine and costs that may be adjudged against the Collector, Guardian, or Manager.* Ditto, Sect. 32.—Ditto, Sect. 36.

The disqualified proprietor, after his disqualification, or the successor to his rights, may sue the Collector, Manager or Guardian, for

* This rule places all disqualified proprietors under the protection of any kind and benevolent person, willing to undertake the task.

any breach of trust or breach of the Regulations in the fulfilment of their duties. Ditto, Sect. 32.—Ditto, Sect. 36.

Period of Minority.

The period of minority of Hindoo or Mahomedan proprietors of estates extends to the end of the eighteenth year. Reg. XXVI. 1793, Sect. 2.—Ced. Pr. Reg. LII. 1803, Sect. 32.*

* No estate the sole property of a minor, and descended to him by the regular course of inheritance, can, during his minority, be sold for arrears of revenue accruing subsequently to his accession to the same. Reg VI. 1822, Sect. 4.

The Court of Wards is competent to take charge of a minor's estate at any time during his minority, and to farm estates under its jurisdiction for a period not exceeding ten years. Ditto, Sects. 3 and 4.

If an estate of the description mentioned above in Section 4, be not taken by the Court of Wards under its superintendence, the revenue authorities may, in case of an arrear of revenue accruing upon it subsequently to the minor's accession to the same, farm the estate for a period not exceeding ten years. Ditto, Sect. 4.

CHAPTER IV.

ABKARREE.

Amount of Abkarree Revenue in 1839-40, *Rupees*, 29,58,434.*

Consumption of Spirituous Liquors.

In almost every country there is a consumption of spirituous liquors which, although in many instances hurtful to the human constitution and injurious to the moral tone of society, is in other cases perfectly innocent and perhaps even salutary. Any enjoyment which does not necessarily injure the person who obtains it, nor any one else, is one which it might not be desirable *forcibly* to suppress, even if its suppression could be effected by such means. But it is probable that in the case alluded to this could not be done. The propensity to the use of spirituous liquors is so strong, that where men have been in the habit of indulging it, they would, more or less easily, find means to continue doing so in spite of all prohibitions; and the partial suppression or restriction of a dangerous habit which those prohibitions might effect, would be an advantage more than compensated by the evil following the operation of the fiscal measures necessary to obtain such a result.† Granting that on the whole a complete and universal abstinence from spirits would be highly beneficial —the amount of good greatly outweighing the amount of evil—if no law can enforce such an abstinence, and if the attempt to do so would be likely to do more harm than good, it only remains for Government to regulate and check, as much as possible, the propensity alluded to, until an improved state of education, a higher degree of civilization, put a stop to the *abuse* of intoxicating liquors if they continue then to be *used* at all.

* This is probably the net revenue of 1839-40, as no charges are entered opposite to this item in the statement published in the Bengal and Agra Gazetteer.

† See some further remarks on this question in Chapter VI.

Independently of any wish to check the use of spirituous liquors, there can hardly be a more legitimate source of Revenue than a consumption, which, far from being necessary to human existence, is probably, on the whole, hurtful to it. Where it is found necessary to tax salt and other necessaries, luxuries cannot and should not escape.

Every provision of the laws relating to the Abkarree revenue, has for its object to ensure the payment of the legal duty on intoxicating liquors, actually consumed, with the least possible inconvenience to the community.* Native, and even European, officers have sometimes considered it their duty to increase, as much as they could, the consumption of spirits in their jurisdiction, that the amount of the Government Revenue might also be proportionally increased. There can however be no greater and more mischievous error than this. The Board of Customs have expressly repudiated such a construction of their orders, or of the Government Regulations. The object of Government, which it is the duty of the Abkarree officers to carry into effect, is that no spirituous liquors should escape the payment of the tax; but not that the consumption of spirits should be encouraged. The Abkarree revenue is to be increased by greater precautions against smuggling, and not by an extension, through the Government officers, of the use of intoxicating and deleterious liquors so often leading to misery and crime.

ABSTRACT OF THE LAW RELATING TO THE MANUFACTURE OR SALE OF SPIRITUOUS LIQUORS.

Prohibitions. No person is permitted to construct, or work, a distillery, except after obtaining a license from the Collector or other proper officer, and on certain conditions. Reg. VII. 1824, Sect. 2.

* The chief objection to the Abkarree revenue is the annoyance which its realization is calculated to occasion to the people, by the domiciliary visits, searching of boats, &c. it renders necessary. This objection applies also to the revenue derived from Opium, from Salt and from the importation or exportation of certain commodities. In these instances, however, the inquisition of the fiscal officers being limited to the frontier, or to some particular places, is not perhaps, *on the whole*, so troublesome as that relating to intoxicating liquors, which extends to every district.

The retail sale of spirits, wines, and all kinds of fermented liquors, is also prohibited except under license from the Collector or other proper officer. Ditto.

The rate of duty is fixed by Collectors with the sanction of the Board of Revenue. Reg. X. 1813, Sect. 14, Cl. 2.

It is incumbent on the Board of Revenue to cause the highest rate of duty to be fixed, which can be introduced without giving rise to the illicit manufacture and sale of spirits. Sect. 14, Cl. 3.

Tawry, Putchwye, Churus, Opium, Ganja, and other intoxicating Drugs, must not be sold without a license from the Collector. Sects. 15, 16, 17.

Abkarree Darogahs have authority to apprehend and to send to the Collector any individual having an unlicensed still in his possession, or engaged in the illicit sale of spirituous liquors or intoxicating drugs. Sect. 18.

The duties leviable on the manufacture and sale of spirituous liquors, may be let to farm by the Collector, with the sanction of the Board of Revenue. Sect. 19.

Persons convicted of the illicit manufacture, or sale, of spirituous liquors, or intoxicating drugs, are liable to fine or imprisonment. Sects. 21 and 22.

Any officer in the Abkarree department, above the rank of a Jemadar of peons—on receiving credible information, in writing and on oath, that a person without a license is engaged in the preparation of spirituous liquors or intoxicating drugs, or has some on his premises, in such a quantity as to induce a suspicion that such a person is illicitly trafficking in such articles—may enter such premises, seize all illicit stills, intoxicating drugs, fermented or spirituous liquors, or materials for the manufacture of the same, and arrest the owner or occupant of the house with all parties concerned. Act XXV. 1840, Sect. 5.

Any persons opposing an officer in the exercise of his duty, are liable on conviction before a Magistrate, besides punishment for breach of the peace, &c. to a fine not exceeding 500 Rupees, commutable if not paid to imprisonment not exceeding six months. Sect. 6.

Any person wilfully giving false information which has caused a search under Section 5, is liable, besides penalties for damages, to imprisonment, with or without labour, for a period not exceeding two years, and to a fine not exceeding 500 Rupees. Sect. 7.

CHAPTER V.

STAMPS.

Gross Revenue in 1839-40,	Rs.	21,08,517
Deduct charges,		1,19,710
Net Revenue,		19,88,807

Stamp Duties.

This is in some respects, the most objectionable of the taxes levied by Government, and it is the only impost in India entirely of European origin. It was introduced by Lord Cornwallis in 1793-94, but has been several times modified since.

The stamp duties are divided into two very distinct classes.

1st. Duties on Deeds in general, such as, Bonds, Drafts, Contracts, Receipts, Deeds of Sale, of Gift, of Power, &c.

2ndly. Duties chargeable on Law Papers, such as Petitions to the Courts, Plaints, Pleadings, Copies of Decrees and other Law Papers.

The first class of these duties is not perhaps particularly objectionable in itself, except when the tax is very high, but the tax on Law Papers has been stated by a Political Economist to be, "a tax upon justice and therefore a premium upon injustice."*

"Justice is demanded in two cases; either that in which it is a matter of doubt to which of two persons a certain right belongs; or that in which the right of some person has been violated and a remedy is required."

* Some of the following remarks and quotations, are so similar to a few paragraphs in a late number of the Edinburgh Review (Oct. 1841,) that they might be supposed to have been borrowed from that periodical, but this chapter was written before the author saw the article alluded to.

"There is no peculiar propriety in taxing a man because he has a right which is unfortunately disputed. But there is the greatest of all improprieties in taxing a man because he has sustained an act of injustice."

"It is very evident that all such taxes are a bar in the way of obtaining redress of injury; and just in so far as any thing obstructs the redress of injury, injustice is promoted. A tax upon justice therefore is a premium upon injustice."*

It may even be said that a stamp duty on law papers does not simply obstruct an injured man in obtaining redress, but has a direct tendency to produce a repetition of similar injuries, and attacks the administration of justice in its principle. The man who obtains redress in a Court of Justice is not the only one who is benefited by the sentence passed in his favour. The indirect consequences of such a sentence are more or less to secure the peace of society, by warning those who might feel disposed to show a similar disregard to the rights of their neighbours, that such conduct will meet with its proper punishment.

The special reason given in support of taxes on law papers, has been generally that they lessened the number of suits which otherwise would be enormous.† Upon this, the same author, quoted above, remarks in his History of British India, Book VI. Chapter 6.

"Nothing is more easy than to lessen the business of the Courts of Law * * * * Decree that no person whatsoever who is less than six feet high shall be admitted to sue in a Court of Justice, and you will reduce the business to a very manageable quantity."

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* Mill's Political Economy, Chap. IV. Sect. 13.

† "The vulgar prepossession in favour of law taxes, as tending to check litigiousness, could, only among a very ill informed people, have supported till a late period, an impost notoriously the very worst that ever was invented." Political Philosophy (published by the Society for the diffusion of Useful Knowledge) p. 19.

"A man's stature is surely as good a test to judge by, whether he has received an injury, as his purse."

"When legislafors propose to drive people from the Courts of Justice by expense, they must of necessity imagine it is the dishonest particularly whom the expense will deter; for it would be dreadful to make laws to prevent the honest from receiving a legal protection. But * * * * * what is the greatest encouragement to injustice? Is it not every thing which tends to prevent immediate redress?"

"Sir H. Strachey, one of the most respectable of the Indian Judges and an honor to the Judicial character, states: 'that out of a hundred suits in India, perhaps in five at the utmost, the plaint of the prosecutor is unfounded.' In ninety-five then out of a hundred cases the plaintiff has a right to a decision. In all that vast proportion of cases, with the small exception of those in which the point of justice may be doubtful, the defendant is an injurer; and every thing which has a tendency to prevent the lawsuit, has a tendency to defraud the innocent and reward the guilty."

"To obviate the disproportion between the number of judicial decisions and the occasions for them, two rational expedients presented themselves. One was to disencumber the Courts of every operation not essential to the ends of justice, by which means they might have been enabled to get through a much greater number of causes. If, even by the most expeditious mode of procedure, the Courts were unable to decide as many causes as were brought to them, the case was plain, the number of Courts was too small for the business of the country, and wheresoever necessary, ought to have been increased."

In No. 142 of the Edinburgh Review, January, 1840, there is an article on the Revenue System of British India, which is understood to have been written by a gentleman of distinguished talent and high standing in the Civil Service. In that paper is found the following sentence: "The hateful tax upon justice which obtains throughout India—no plaints, pleadings, or copies of documents being received

in the Courts of Law, except upon stamped paper—is another heavy and demoralizing burden which might most beneficially be taken off."

There can hardly be a doubt that the Indian Government is now well aware of the great objections to the tax on law papers, and would readily abolish it if the amount yielded by it could be spared without inconvenience to the public service, and especially if it were not apprehended such a step would render necessary the creation of many new Courts of Justice which the present state of the public finances could not afford to maintain. The Civil and Criminal Courts are now, however, comparatively free from arrears, and it is not probable they would experience any but a *momentary* difficulty, in disposing of the increased number of causes which the introduction (with proper checks to prevent unfounded complaints) of a system of free justice would at first bring them.

As for the loss of revenue to be expected from giving up the tax on law papers, it does not appear actually necessary that, to obtain all the advantages to the community which would follow the abolition of that tax, the Government should lose the whole, or even any considerable part, of the amount realized from it.*

Suppose, for instance, that instead of demanding the present tax on stamps, *previous* to the decision of the suit, it was enacted that the same amount, as is now payable in the course of the trial but ultimately falls on the party who loses the suit, should be demandable only, if demandable at all, *after* the suit had been decided,* and should then be leviable as an arrear of revenue from the same party who now has to pay it, the following consequences would follow:

1st. The present impediment to justice resulting, according to Sir H. Strachey's statement, in ninety-five cases out of a hundred, from the present tax, would no longer exist; all plaints, pleadings, &c. being received on plain paper.

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* This principle has actually been adopted by the legislature of India in certain cases. See Act IX. of 1839.

2nd. After the decision of the case, the whole amount of the stamp tax payable upon it, would either be realized from the party cast, or it would not. If realized, the Government would then have lost nothing by the change. If, on the contrary, that same party was unable to pay the whole tax, in this case of course the Government would be a loser by so much of the total amount as would not be realized. But under the present system who would have to bear that same loss? The party who gains the suit; that is, the person who is declared by the Court to have been injured by his opponent, and who, instead of obtaining a complete reparation, is actually made by the law to sustain an additional injury.

A man has illegally deprived another of some property equal in value to a hundred rupees. The latter sues him for it, obtains a decree, and through that decree we will suppose he recovers the value he had lost.* If the defendant has the means, the plaintiff will also recover from him his costs, that is, among other things, the price of the stamps which, under the present law, he had to purchase before he could institute and prosecute his suit. If, however, the defendant can only just refund the amount illegally appropriated, the plaintiff not only obtains no redress or compensation for the trouble and anxiety he has been subjected to, or the expenses in Vakeel's fees, &c. he has had to pay, but, in addition to all that, the present system of stamps imposes upon him a heavy tax.

The change here suggested would in the first instance cause some increase in the number of suits, but it is probable that this would only be momentary, because, although a number of cases which the parties cannot now bring into court would then find their way there, many of the description of those now on the files would never be instituted. The stamp tax under Schedule B. Regulation X. of 1829, probably not much less productive to the Government than it is at present, instead of being as it is an impediment to justice, would become a powerful check to injustice, especially if, in case of non-payment and obvious bad faith in the suitor cast, the tax was commutable into imprisonment like an ordinary fine.

* If he did not recover the whole of his loss the argument would of course be stronger against the present law of stamps.

There are doubtful and intricate cases in which both parties truly and honestly believe that they are right; in such cases of course no stamp tax should be levied. It is not just to tax a man because he is labouring under an error which perhaps has its source in the obscurity or intricacy of the law. Let the Judge in passing his decision, be left at liberty to order that the party cast shall pay the stamp tax, or to say "I am satisfied, or it is probable, from the facts of the case, that both parties commenced and continued the suit in good faith, and therefore no stamp tax can be demanded from the losing party." The latter, in fact, suffers enough for his error without any additional tax being laid upon him on that account.

The principal features of the law of stamps are as follows.

Abstract of Schedule A. Reg. X. 1829. Rates of stamp duties.

No. 4. Bills of Exchange, Drafts, Promissory Notes, Hoondees, Teeps, payable within the Bengal presidency at sight or at the periods specified below, (not being deeds bearing the attestation of one or more witnesses), together with Bills of Exchange payable out of the said provinces at whatever date, the proper stamp shall be:

				On Bills payable at sight or within 3 months.		On Bills payable after 3 months.	
				Rs.	As.	Rs.	As.
For a sum not above	25	on a Stamp of		0	1	0	2
Above	25	and not above	50	0	2	0	4
„	50	„	100	0	4	0	8
„	100	„	200	0	8	0	12
„	200	„	400	0	12	1	0
„	400	„	800	1	0	1	8
„	800	„	1,600	1	8	2	0
„	1,600	„	3,000	2	0	2	8
„	3,000	„	5,000	2	8	4	0
„	5,000	„	10,000	4	0	6	0
„	10,000	„	20,000	6	0	8	0
„	20,000	„	30,000	8	0	12	0
„	30,000	„	50,000	12	0	16	0
„	50,000	„	1,00,000	16	0	20	0
„	1,00,000			20	0	25	0

Schedule A. (*Continued.*)

No. 6, Bills of Exchange and Promissory Notes of date exceeding one year shall be charged as Bonds.

Exemptions.

Bills of Exchange, or Hoondees, drawn from any place more than 100 miles distant from the place where they are payable.

Drafts or orders drawn on any Bank, Banker or Agent within 20 miles of the place where such drafts shall be issued.

No. 7. Bonds, Tamussooks, and other attested obligations for the payment of money, also Promissory Notes and Bills of Exchange of date exceeding one year, must be written,

If for any sum not above 25 Rs.					on a Stamp of	2	annas.
For sums above	25	not exceeding	50	„	0	4	
„	50	„	100	„	0	8	
„	100	„	200	„	1	0	
„	200	„	300	„	2	0	
„	300	„	500	„	4	0	
„	500	„	1,000	„	6	0	
„	1,000	„	2,000	„	10	0	
„	2,000	„	3,000	„	16	0	
„	3,000	„	5,000	„	20	0	
„	5,000	„	10,000	„	32	0	
„	10,000	„	20,000	„	40	0	
„	20,000	„	50,000	„	64	0	
„	50,000	„	75,000	„	70	0	
„	75,000	„	1,00,000	„	80	0	
„	1,00,000	„	1,50,000	„	100	0	
„	1,50,000	„	2,00,000	„	120	0	
„	2,00,000			„	150	0	

100 Rupees more for every lakh above 2,00,000.

Schedule A. continued.

No. 18. *Conveyances, Deeds of Sale, or Gift* (Kebalas, Byenamas, Hibanamas.)

				Rs.	As.
For a sum not exceeding	50	Rs. shall be on a Stamp of		0	8
above	50	not above	100	1	0
„	100	„	200	2	0
„	200	„	500	4	0
„	500	„	1,000	8	0
„	1,000	„	2,000	12	0
„	2,000	„	3,000	16	0
„	3,000	„	5,000	20	0
„	5,000	„	8,000	32	0
„	8,000	„	12,000	40	0
„	12,000	„	20,000	50	0
„	20,000	„	30,000	64	0
„	30,000	„	50,000	80	0
„	50,000	„	1,00,000	100	0
„	1,00,000	„	2,00,000	150	0

No. 29. *Leases* of lands, houses or other real property without payment of any fine, or premium, (pesh kush, Nuzurana).

				For a period not above one year.		For a period above one year.	
Where the rent calculated for a whole year, shall exceed 12 Rupees but not 24 Rupees, the Stamp shall be				0	4	0	8
If above	24	Rs. but not above	50	0	8	0	12
„	50	„	100	0	12	1	0
„	100	„	250	1	0	2	0
„	250	„	500	2	0	4	0
„	500	„	1,000	4	0	8	0
„	1,000	„	2,000	8	0	12	0
„	2,000	„	4,000	12	0	16	0
„	4,000	„	6,000	16	0	20	0
„	6,000	„	10,000	20	0	32	0
„	10,000	„	50,000	32	0	64	0
		above	50,000	64	0	80	0

No. 30. Any *Lease* stipulating for a yearly rent, and granted in consideration of a fine or premium, shall be charged both as a Lease and Conveyance.

No. 42. *Policies of Insurance.*

				Rs.	As.
not above			5,000	4	0
above	5,000	not above	10,000	8	0
„	10,000	„	20,000	12	0
„	20,000	„	50,000	16	0
„	50,000			20	0

No. 45. *Receipts* of money for a sum				Rs.	As.
exceeding	50 Rs.	not above	100 Rs.	0	2
„	100	„	200	0	4
„	200	„	500	0	8
„	500	„	1,000	0	12
„	1,000	„	2,000	1	0
„	2,000	„	3,000	1	8
„	3,000	„	5,000	2	0
„	5,000	„	8,000	2	8
		above	8,000	4	0
	For a receipt in full of all demands,			4	0

Exemptions.

Receipts for rent of land given to a Ryot.
Receipts for money deposited in any Bank.
Receipts on Promissory Notes or Drafts.

ABSTRACT OF SCHEDULE B. REG. X. 1829.

RATES OF DUTIES ON LAW PAPERS.

No. 2. Copies of decrees in suits for an amount not exceeding 300 Rs. tried in the Court of Moonsiffs, Sudder Ameens, or Principal Sudder Ameens, are not liable to a stamp duty.

In all other cases whether tried in the Judge's, Sudder Ameen's

or Principal Sudder Ameen's Court, when the decree is for a sum above 300 Rupees, (Reg. V. 1831, Sect. 9 and 20, and Act XXV. 1837, Sect. 5) the copy must be taken on a stamp of 1 Rupee.

In the Sudder Dewanny Adawlut the copy should be on a stamp of 4 Rs.

No. 7. Petitions, Durkhausts or applications to a Sudder Ameen, Collector, City Judge, or Magistrate are liable to a duty per sheet of 0 8
Ditto to a Commissioner of Revenue 1 0
Ditto to the Sudder Board or Sudder Dewanny Adawlut .. 2 0

Exemptions.

Charges and informations respecting crimes and offences not bailable under the Regulations.

Petitions from Convicts or other persons under restraint of the Court.

Petitions to Collectors, or Settlement Officers about the assessment of lands, if presented pending the formation of the settlement.

Stamps in Summary Suits.

Summary claims for arrear or exaction of rent preferred to the Collector shall be written on a stamp of one-fourth the value required in a regular suit. Reg. VIII. 1831, Sect. 5.

No. 8. Petition of plaint in suits and appeals.

				Stamp.
			Rs.	Rs. As.
If the value of the property claimed do not exceed			16	1 0
If above	16	not above	32	2 0
„	32	„	64	4 0
„	64	„	150	8 0
„	150	„	300	16 0
„	300	„	800	32 0
„	800	„	1,600	50 0

				Stamp.	
			Rs.	Rs.	As.
If above	1,600	not above	3,000	100	0
„	3,000	„	5,000	150	0
„	5,000	„	10,000	250	0
„	10,000	„	15,000	350	0
„	15,000	„	25,000	500	0
„	25,000	„	50,000	700	0
„	50,000	„	1,00,000	1,000	0
above	1,00,000			2,000	0

In suits for an entire Mehal paying revenue to Government, or for a specific portion thereof, the value shall be assumed at three times the annual jumma when the mehal has been settled in perpetuity, and at the entire annual jumma when the mehal has not thus been settled.

In suits for Lakheraj lands the value shall be assumed at 18 times the estimated annual rent.

In suits for Damages the value shall be computed at the rate assumed by the plaintiff.

In suits for Houses, or other Real or Personal property, not capable of a valuation under the above rule, the amount shall be computed at the estimated selling price, which will be specified on the plaint; and if the value be under stated in the proportion of ten per cent, the defendant on proof of this shall be entitled to a nonsuit.

No. 9. *Pleadings.* Answer, Replication, Rejoinder, &c.

In any suit for a sum not above 300 Rs., (Regulation V. 1831, Sect. 9, Cl. 2 and Act XXV. 1837, Sect. 5), whether referred to a Moonsiff or Sudder Ameen or Principal Sudder Ameen, the pleadings are exempt from stamp duty.

In cases above 300 Rupees but not above 1,000 Rupees, and tried

by a Sudder Ameen or Principal Sudder Ameen (Act XXV. 1837, Sect. 7), pleadings shall be on a stamp of 0 8

In cases above 1,000 Rs. tried by a Principal Sudder Ameen, ... 1 0

In cases under 1,000 Rs. tried in the Judge's Court, ... 1 0

In cases above 1,000 Rs. and tried in the Judge's Court, Reg. VII. 1832, Sect. 3. Reg. V. 1831, Sect. 20, ... 4 0

Further rules relative to Stamp Duties.

The above are the *most important* provisions of Schedules A. and B. They are enforced by the following rules enacted in Reg. X. of 1829.

No deed shall be received in any Court unless written on paper bearing the proper stamp.—Reg. X. 1829, Sect. 3.

If a deed have been executed on an unstamped paper, or on an insufficient stamp, through ignorance or under circumstances exonerating the party from blame or suspicion of an attempt to evade the stamp duty, the said paper may be stamped, on application being made to the Collector within thirty days from the date of execution, on payment of treble the duty omitted to be paid. Sect. 14, Cl. 2.

If not brought within thirty days, but within a period less than three months, the deed may be stamped on payment of five times the duty, or five times the difference between the insufficient and the proper value of the stamp. Sect. 14, Cl. 3.

If the Collector, or the Board, be not satisfied that the execution of the deed is exempt from suspicion of an attempt to evade the duty, the paper may however be stamped, provided it be brought within three months, on payment of a penalty equal to ten times the duty evaded. Sect. 14, Cl. 4.

If the deed on an insufficient stamp, or on plain paper, be not presented to be stamped within three months from the date of execution, it shall not be entitled to the benefit of being stamped, except upon ground shown to the satisfaction of the Board, that otherwise the

holder will be subjected to great and unmerited hardship or injustice. If on this representation it be deemed proper to affix the stamp, the fine shall be at the discretion of the Board, but not less .han ten times the amount of duty evaded. Sect. 14, Cl. 5.*

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* The penalties of Sect. 14, may be mitigated by the Board or other controlling authority. Sect. 14, Cl. 1.

CHAPTER VI.

OPIUM.

Gross revenue in 1839-40,	Rs.	76,27,491
Deduct charges,		37,32,570
Net revenue,*		38,94,921

The exclusive privilege of dealing in Opium had been assumed by the Mogul Government. The present Opium revenue of India is realized by means of a monopoly on the cultivation of the poppy, that is, no one is allowed to grow that plant unless he be specially authorized to do so by the Opium Agent, or some other officer having the superintendence of that branch of revenue. In such a case the cultivator receives an advance of money, and binds himself to deliver at a fixed price (3 Rs. 10 annas a seer) to Government, the whole of the Opium his land will produce. A Beegha of good land, cultivated with ordinary care, yields in Behar an average of about five or six seers per Beegha; and, not unfrequently, lands of the best quality, well cultivated, produce two or three times as much as that. The price at which the Government purchase the opium is, in Behar at least, highly advantageous to the cultivator, as clearly appears from a ryot often considering it a great punishment if for some misconduct he is refused the privilege of cultivating opium at all, and from the fact that, notwithstanding the great advances given (10 or 12 Rs. per Beegha), there are scarcely any balances left outstanding at the end of the year in the Behar opium factories.

Disposal of the Opium received from the Cultivators.

When the opium has been delivered by the cultivators to the Deputy, or Sub-Deputy, Opium Agents in each District, it is forwarded by those officers to the agency of Behar or Benares, as the District is within the jurisdiction of either one or the other

* The small amount of the Opium revenue in 1839-40 was the consequence of peculiar circumstances as explained further.

of those two agencies. There the drug is dried and packed up, and then sent to Calcutta, where it is sold at auction by Government to the highest bidder. The cost to Government is probably less than 155 Rupees per Maund, while the prices obtained for it, although varying very much, have generally exceeded five or six times that amount. The market price has been known to rise as high as 4,000 Rupees a chest of about 2 Maunds. The chests of opium once sold and delivered, the Government has no more concern with them. With the exception of comparatively a few chests which are sent to different parts of the world, the opium exported from India is carried to China on British ships, and there it is smuggled into the country by the natives themselves, notwithstanding all the prohibitions and preventive officers of the Chinese Government, the highest provincial officers of that Government sometimes conniving openly at the illegal transaction.

Remarks on this branch of revenue.

The singularity of this branch of Indian revenue is, that it is not paid by the people of India but by the Chinese.* If there were no such thing as opium produced in India, not only the Government would lose all the revenue they derive from it, but the Zemindars would be deprived of the increase of rent which they obtain from the competition for land created by such a rich agricultural produce, and the cultivators of opium would be compelled to undertake some other cultivation, evidently less advantageous than that of the poppy, since they choose to cultivate the latter plant in preference to any other when at liberty to do so. If, on the contrary, the opium cultivation were free, the cultivator would probably *at first* get a higher remuneration, because there would be many speculators competing for the purchase of opium and bidding against each other; but the proprietors of lands fit for the cultivation of the poppy, would, of course, increase their rents, the ryots in the end would not be at all better off for the increase in the price of the Drug. Again, as the competition of the purchasers of opium in India would increase the price at which

* It will be seen in Chapter VIII. that taxes on goods which are *exported*, are generally paid by foreigners.

the opium is obtained from the ryots, so the competition among the exporters to undersell each other in China, would diminish the price there; and thus, ultimately, this branch of commerce would be found, like every other, to yield merely the *current* rate of profit to all those engaged in it. The only men who would gain any thing by the change would be, first, the proprietors of lands fit for the cultivation of the poppy, because a diminution in the price of opium in China would increase the demand for that drug, which would consequently be more extensively cultivated; and secondly the Chinese, who would probably get several times the same quantity of opium for the same amount which they have usually had to pay for it. The benefit which would accrue to the Indian Zemindars from the abandonment of the monopoly, is an objection against that monopoly, but it is doubtful whether the Government could obtain the same amount of revenue from (as far as the people of India are concerned) any less objectionable source.

As comparatively little opium is produced so cheaply in any other part of the world as in India, the Government of this country is, under the present system, almost the only seller of opium, while many are willing to purchase it; there is thus little or no competition *to sell*, but there is a competition to *purchase*, and the Government might raise the price of opium nearly as high as it chose by producing less for sale. This would restrict the consumption of opium to a few, while by producing a large quantity, and selling it at a more moderate price,* it is brought within the reach of a greater number of consumers. As a greater quantity of opium has been produced in late years, the price has diminished though not in the same proportion, the demand having greatly increased in consequence of that diminution of price.†

The Chinese being willing to purchase as much opium as is

* Or rather *was* till the giving up of the opium monopoly in Malwa.

† It is invariably found that the diminution of price of any commodity —whether resulting from a diminution in the cost of production or from a reduction of duty—increases the consumption of that commodity. This is a principle of Political Economy which must not be lost sight of.

brought to their market for sale, the Calcutta speculators regulate their purchases upon this, and readily give to Government as high a price for the drug, as will from the China prices leave them a fair remuneration for the interest of their money, the freight and insurance to China, &c. On the whole, as far as India is concerned, the opium monopoly, regulated as it is at the present day, is not liable to any great objections, but with regard to China the case may be otherwise, and the Indian Government have in fact been reproached in England and in this country, with cultivating a plant the produce of which is sold by them with the full knowledge that the purchasers intend to realize a profit upon it, by smuggling it into a foreign country in direct violation of repeated prohibitions by the Government of that country.

Other possible modes of realizing an Opium Revenue.

This objection, however, apparently applies rather to the manner in which the opium revenue is realized than to the principle of such a revenue, and might in great measure be removed by the Government giving up the poppy cultivation on their own account, and, either allowing individuals to cultivate opium on taking licenses sold at an average price per beegha equal to the average profit now realized by the State on the same extent of land in which the poppy is cultivated, or levying an export duty on each chest of opium, equal to the present profit on the same quantity of the drug.

In this way the same amount of revenue might be realized, and would then not only act (as it really does now), but *obviously* act, as a check on the excessive production of opium. The Government, instead of exhibiting itself in the light of a great speculator using its best exertions to increase the cultivation of the poppy, and thus laying itself open to the reproach of encouraging an immoral trade, would leave it entirely to individual enterprize.

The *moral* advantage of such a change, however, (although it would probably put an end to the opposition of many conscientious persons) would be of course more specious than real, and the Government might still be reproached with allowing opium to be exported to China at all, when they know that the introduction of the

drug into that country is considered extremely injurious to the people, and is prohibited by the Chinese Government.* But the question would be different between the two countries; the British Government does not think it necessary to prohibit the use of opium in its own dominions, and cannot be expected to prevent other nations from using it if they like; and, independently of this, it is not by the usual law of nations bound to assist the Chinese Government in enforcing its own particular prohibitions. The people of China want opium, the merchants of India supply them with it, let the Chinese Emperor dissuade, or prevent his subjects from buying the drug, let him seize and confiscate all the contraband opium his officers can lay hold of, the British or Indian Government can have nothing to say to such a legitimate exercise of political authority.

Consumption of Opium.

It is a nice question of civil policy, whether the cultivation of a plant producing a drug which, although under some circumstances highly useful, produces however on the whole more harm than good, should be altogether prohibited by Government. It must be remarked that the deleteriousness of the drug is merely the result of the imprudence or folly of those who use it heedless of its remote effects; if more prudent they would only use it for proper purposes as an innocent enjoyment (supposing this to be possible) or as a medicine. European Governments have in general restricted by high duties the consumption of such drugs, spirits, &c., but not suppressed them, or when they have attempted to suppress them they have been unsuccessful. The only certain remedy against the improper use of opium, tobacco, spirituous liquors, &c., appears to be in the spread of education: direct legislation is for this comparatively powerless.

The consumption of opium has been gradually increasing in China. During the first ten years of the present century the annual exports

* The objections which have often been urged against the Opium Revenue could be entirely removed but by a direct prohibition of the cultivation of the poppy, or at least of the exportation of opium to the eastward. See Note D. at the end of this Volume.

from India to that country were about 2,500 chests; in 1821 the exports had increased to 4,628 chests; in 1831 they exceeded 20,000 chests; and in 1838-39 and 1839-40 must have been nearly double this last quantity. The average price of opium in China in 1816-17 was about 1,000 Rupees per maund; in 1821-22 nearly double; in 1830-31 it had decreased to about 800 Rupees, and is somewhat lower now.

Imports of opium in China for several years.*

	Patna and Benares.			Malwa.	Turkey.	Total.
	Patna. Chests.	Benares. Chests.	Total. Chests.	Chests.	Chests.	Chests.
1816-17	———	———	2,610	600	750	3,960
1827-28	4,006	1,128	5,134	4,361	No account of Turkey opium during these years.	9,495
1832-33	6,410	1,880	8,290	15,403		23,693
1835-36	9,011	2,005	11,116	15,002		26,118

Malwa Opium.

The revenue derived from the Malwa opium, is now obtained by means of a transit duty, as it passes through the British Territories. Its annual amount is estimated at about 16 laks of Rupees (Bengal and Agra Gazetteer, vol. II. part 2, p. 180). Under the system of monopoly formerly prevailing, it had produced about 31 laks a year, (ibid, p. 179), but that system was found liable to objections which led to its being abandoned. The reason of such a great diminution in the revenue by the change of system is not stated.

Amount of Opium Revenue.

The total gross revenue derived from opium in 1816-17, (Mr. Prinsep's History of India, t. 2, p. 427) was,	Rs.	81,17,706
Deduct charges,		10,17,701
Net revenue,		71,00,005
Gross revenue, 1821-22,		97,00,631
Deduct charges,		3,40,938
Net revenue,	Rs.	93,59,693

* These particulars are taken from Mr M'Culloch's Dictionary of Commerce.

In 1837-38 the gross revenue amounted to Rs. 2,24,00,000 which must have left about two crores of net revenue.

In 1839-40, the Bengal and Agra Gazetteer states the gross receipts on account of opium to have been, ... Rs. 76,81,943
And the disbursements, ... 37,33,944

Net revenue, ... Rs. 39,47,999

From the above it appears that the amount of net revenue derived from opium has greatly varied in different years, but, as stated by a very high authority (Mr. Prinsep in his History of India, vol. II. p. 439,) "the time of sale occasions the proceeds to be brought to account frequently in the following year, so that the revenue realized in any given year bears no direct ratio to the price: moreover the quantity brought to sale is not uniform." From 1813-14 to 1822-23 the gross revenue fluctuated between 83 and 128 laks, and the charges averaged 7 or 8 laks a year. The great reduction apparent in the account of 1839-40, is the result of peculiar circumstances, and cannot afford any criterion to judge of the future prospects of this branch of revenue. The Chinese authorities then all at once shewed a much more practical opposition to the importation of opium than they had done before. This and the state of war which resulted from their violent measures with regard to Englishmen unconnected with the opium trade, and even to the Representative of the British Government in China, greatly disturbed all commercial relations with that nation.

ABSTRACT OF THE LAWS

RELATIVE TO OPIUM.

Cultivation of the poppy.

The cultivation of the poppy and manufacture of opium within the Bengal Presidency, except on account of Government, is prohibited. Reg. XIII. 1816, Sect. 3.

The importation of opium from any foreign country is prohibited. Sect. 4.

The Agents employed by Government must be Covenanted Servants, (Section 5) and shall annually make a settlement with the ryots who may choose to cultivate the poppy. Sect. 9.

It is left to the option of every person to enter into such engagements at the price settled by Government, or to decline the cultivation of the poppy altogether. Sect. 10.

The Agent, or person deputed by him, shall take an engagement from each cultivator, specifying the number of beeghas to be cultivated, with the amount of the advance to be received by him; and the cultivator shall be bound to cultivate that number of beeghas, or to pay three times the amount advanced on each beegha. When the poppy is full grown, the Agent shall depute a person to form with two or three creditable cultivators, an estimate of what each field is likely to produce, and the ryot is to take an engagement to deliver so much opium or more.* Sect. 11.

Zemindars and proprietors of lands are prohibited exacting more from the ryots on account of their poppy lands than the established rates. Sect. 17.

Magistrates and Collectors, or other officers in charge of the Abkaree Mehal, are to transmit to the Abkaree and Police Darogahs, lists of the licensed cultivators residing within their jurisdictions, with directions to prevent others from cultivating the poppy. Sect. 29.

Delivery of Opium.

The weights and scales for weighing the opium received from the ryots, are to be sealed with the seal of the Magistrate, and examined annually by him. The opium shall be fairly weighed in the presence of both parties, that is, the Opium Officer appointed for that purpose and the cultivator. Sect. 13.

In case a ryot fails to deliver the quantity of opium agreed for by

* The object of this rule is, of course, to check, as much as possible, the illegal sale of the drug to other parties but the officers of Government. See further Sect. 14 of the same Regulation.

him under Sect. 11, if the Agent suspect the cause of the failure to be in the wilful neglect of the ryot, he must complain to the Zillah or City Judge, and if the charge be proved, the Judge will award that the ryot shall restore the proportional advance with interest at 12 per cent., and may, besides, fine him as much again. Sect. 14.

Illegal Cultivation of the Poppy.

Any person who may cultivate the poppy in opposition to the prohibition in Sect. 3, shall on conviction before a Collector, be liable to a penalty of 20 Rupees per beegha of land so cultivated, and the poppy if standing shall be destroyed, or the opium confiscated if already extracted. If the opium has been extracted and cannot be seized, the ryot shall be liable to a penalty of 32 Rupees, instead of 20 Rupees per beegha. In addition to the above penalties, the offender shall be liable to imprisonment not exceeding six months, or, if the penalty be not paid, to a further imprisonment not exceeding six months. Sect. 31.

All Zemindars or farmers, all Gomashtas, and all Tehsildars employed on the part of the Government, are enjoined to give the earliest information of any poppy illegally cultivated within the limit of their estate, or the farm managed by them. Sect. 32.

The above persons, on proof before the Collector of neglect in this particular, shall be liable to the pecuniary penalties of Section 31, unless it clearly appears the land was cultivated without their knowledge or connivance. Sect. 33.

Putwarrees are also directed, under the same penalty, to give the required information. Reg. VII. 1824, Sect. 18, Cl. 3.

Illegal dealings in opium.

Any persons convicted of illegal dealings in opium, shall, in case the forfeiture does not amount to 500 Rupees, forfeit such additional sum as will complete that amount, the said penalty being commutable to imprisonment not exceeding six months. Sect. 18, Cl. 4.

Ryots receiving advances for the cultivation of the poppy on account of Government, who may be guilty of embezzlement of the

opium which they have engaged to deliver to the Government officers, or may otherwise illegally dispose of it, shall be liable to prosecution before the Collector, and, on conviction, to a fine of 8 Rupees per seer, and confiscation of the opium; and, if the opium cannot be seized, to a fine of 16 Rupees per seer. In addition to this, the parties shall be liable to imprisonment not exceeding six months, or, in case the fine be not paid, to a further imprisonment not exceeding six months. Sect. 30.

Any person purchasing opium from a cultivator, or other person under engagement for the delivery of that opium to Government, or advising or causing that cultivator illegally to dispose of that opium, shall forfeit three times the penalty in Sect. 45 of Regulation XIII. of 1816, viz. 24 or 48 Rupees per seer.† And when the said forfeiture shall not amount to 1,500 Rupees, such a further sum shall be forfeited as will complete that amount; the said fines if not paid, shall be commutable to imprisonment not exceeding twelve months. In addition to these, the offender shall be subject to imprisonment as prescribed in the aforesaid Section. Sect. 18, Cl. 5.

All opium, except that sold by the authority of Government, shall be considered contraband, and liable to seizure, together with the boats, carriages, &c. used in storing or transporting it. Sect. 39.

Opium, the produce of a foreign country, in the hands of travellers, not exceeding two seers, and intended for private consumption, shall not be liable to seizure; nor opium in the hands of horse dealers, and not exceeding ten Sicca Rupees weight for each horse. Reg. XI. 1818, Sect. 2.

Any person under other circumstances, and not being duly authorized, having in his possession more than 5 tolahs' weight of opium, shall be liable to have it seized, together with the animals or carriages, &c. used in storing or transporting it; and shall be further

† The penalty in Sect. 45 of Reg. XIII. of 1816, is 8 Rupees per seer of contraband opium, when that opium is actually seized, and otherwise, 16 Rupees per seer.

liable to the penalties in Section 45 of Regulation XIII. 1816. Reg. XI. 1818, Sect. 3.

The persons giving information upon which any illicit opium may be seized, and the native officers seizing it, shall have part of the penalty which will be levied from those who are convicted of dealing illegally in that article. Reg. VII. 1824, Sect. 21.—Reg. VIII. 1826, Sect. 3.

No opium shall be sold except at the shops established on the part of Government. Reg. XIII. 1816, Sect. 74.

Any person illegally selling any quantity of opium, shall be liable to a fine not exceeding 500 Rupees, or, in lieu of it, to imprisonment not exceeding six months. Sect. 75.

The above Section is not applicable to authorized cultivators with regard to their newly extracted opium. Sect. 77.

Responsibility of Opium Officers.

The Opium Agents, and their officers, are amenable to the Dewanny Adawlut of their district, for all acts done by them in their official capacity; provided however, that any one considering himself aggrieved, shall in the first instance make application for redress to the Agent himself, and in case he be not satisfied with the Agent's order, he may either lay his case by petition before the Board of Trade, or seek redress in the Civil Court. Sect. 18.

Officers of every description in the employment of the Agents or their Deputies, are prohibited taking any fee or gratuity from any ryots, or other persons employed and concerned in the provision of opium. Sect. 12.

CHAPTER VII.

SALT.

Gross revenue in 1839-40,	Rs.	1,88,70,079
Deduct charges,		38,59,534
Net revenue,		1,50,21,545

Remarks on the Salt Revenue.

Under the Mogul Government, the tax on Salt was levied partly by a high transit duty, and partly by a monopoly. It is now in Bengal, Behar and Orissa, like that obtained from Opium, realized in the latter mode.* The Salt is manufactured on the sea shore by the Molunghees on account of Government. It is then sold at auction in Calcutta to the highest bidder. The purchasers retail it under certain rules. By increasing or diminishing the production, the Government may very greatly diminish or increase the price of Salt, but the price at which it is sold by them varies only in general from 3 to 4 Rupees per maund, while the *prime cost* of the same quantity is always under 1 Rupee.

The Salt monopoly is by no means so free from objection as the monopoly of opium. The latter, in so far as it checks the production of a drug which probably does more harm than good, is positively beneficial, but the former, on the contrary, is objectionable in proportion to the check it is calculated to give to the production of a pleasant and wholesome condiment. Besides, as a tax it has an appearance of harshness and injustice from being paid in equal proportions

* In the Upper Provinces the tax on salt is levied by means of a duty of 2 Rupees per Maund, on importation, and the amount is included under the head of Customs. See further.

by the rich and poor. A poor man requires as much salt in his food as a rich man does in his; if he can afford it he will buy the same quantity for his own consumption. The tax being included in the price of the Salt, he thus pays as much of it as the richest man in the land, or otherwise does not get as much as he requires.*

In addition to this, the tax on Salt is liable to all the objections against monopolies. It is a matter of constant experience that whatever work is done directly by Government, is done more expensively than it would be by private individuals. Government officers are not so active and so economical as a private person labouring under the powerful stimulus of self interest. A Government officer is generally paid by a fixed salary, or has perhaps a certain commission on the work he performs, but he has not in either case any great inducement laboriously to exert himself to reduce the expenses of production to their minimum. He would not at all, or at least would only to a very limited extent, benefit by it. The private speculator, on the contrary, benefits exactly by the whole of the saving he can effect in the cost of production. So long as the Government itself is the grand Salt manufacturer, the price of Salt to the people is increased, not only by the amount of the profit the Government makes upon it, but also by a portion of the original cost of production.

It is doubtful, however, whether Government could realize the same amount of Salt revenue at a less expense, or in any other way, but by a monopoly, and probably the present system must be persevered in until the Government, by a reduction in their expenses, or the increase of some other branch of revenue, can afford to give up part of the tax levied on Salt.

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* The average consumption of Salt has been estimated at about six seers per annum for each person. This would give thirty seers for the consumption of a family of five persons. The tax upon that quantity of Salt cannot be less than 1 Rupee 8 annas in the Bengal Presidency. Thus for a poor family living on a yearly income of 48 Rupees, the tax amounts to upwards of 3 per cent. while its amount can hardly be felt at all by a family in easy circumstances.

The gross revenue obtained from the salt monopoly was in 1816-17,	Rs.	1,47 41,151
Deduct charges,*	„	40,89,915
Net revenue,	„	1,06,51,236
Gross revenue in 1821-22,	„	1,76,59,120
Deduct charges,	„	51,48,026
Net revenue,	„	1,25,11,094
According to the Bengal and Agra Gazetteer the gross receipts on account of Salt were in 1839-40,	„	1,88,68,079
Deduct charges,	„	38,59,534
Net revenue,	„	1,50,08,545

Thus the gross revenue has materially increased, while the expense of collecting it and manufacturing the Salt has been reduced.

ABSTRACT OF THE LAWS RELATIVE TO SALT.

Manufacture of Salt.

Alimentary Salt shall not be made in Bengal, Behar or Orissa, except on account of Government or with their sanction. All Salt made in breach of this Regulation shall be forfeited, and the parties offending shall be liable to a fine, not exceeding 500 Rupees for each kalary or Salt work, and to imprisonment not exceeding six months. Reg. X. 1819, Sects. 30 & 31.

All Landholders, Farmers, Gomashtahs, Tehsildars, Putwarees, &c. are expected to prevent, to the utmost of their power, the illicit manufacture of Salt in their villages, and to give the earliest possible notice of such manufacture to the Salt officers. Sect. 32.

The above persons, in case of wilful neglect, are liable to the same fine as the manufacturers themselves. Sect. 33.

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* In this instance, as well as in that of Opium or any other Government Monopoly, the *charges* include the cost of *producing* the commodity, and not solely the expense of collecting the tax laid upon it.

All officers in such a case shall be, besides, liable to dismissal from office. Sect. 34.

The manufacture of Noonchye, or any other saline substance used as a condiment for food, is subject to the same rules as the manufacture of common Salt. Reg. X. 1826, Sect. 3.

Until lately Salt could be manufactured in the N. W. Provinces on the left bank of the Jumna, but any person intending to manufacture that condiment had to give notice of that intention to the Collector of the District. In that case the Collector deputed one or more officers to be present at the place of manufacture, and to take care that no Salt might be removed without paying the usual rate of duty to Government. Act XIX. of 1843 has, however, put an end to that system.

Government Officers of the Salt Department.

The provision of Salt is superintended by Covenanted Servants of the Government, under the official denomination of Salt Agents. Reg. X. 1819, Sect. 3.

Under the Salt Agents are the Superintendents of Salt Chowkies. Sect. 4.

Salt Agents, Superintendents of Salt Chowkies and their Assistants, are not allowed to trade without a special permission to that effect. Sect. 5.

All engagements on the part of those who contract for the provision, manufacture, or transport of Salt, should be voluntary. Sect. 7.

If any compulsion be used, the Agent so offending is liable, besides dismissal from office, to such damages as may be awarded against him. Sects. 8, 9, 10.

Salt Agents and their Assistants are liable to be sued in the Civil Court for breach of the Regulations. This rule however is not applicable to acts done by Salt Agents in their judicial capacity. Sect. 13.

Salt officers receiving fees, or gratuities, from Molunghees or others concerned in the manufacture of Salt; or withholding or appropriating advances, are liable to dismissal, to a fine not exceeding five hundred Rupees for every hundred Rupees taken, and to imprisonment not exceeding 6 months. Sect. 63.

Transport and Sale of contraband Salt.

All Salt in Bengal or Orissa exceeding 5 seers in quantity, and not protected by a *rowanna* or pass, shall be held to be contraband and confiscated; the persons in possession, and the owners, shall be liable to a fine not exceeding 5 Rupees per maund of Salt so seized. And if Salt protected by a rowanna be, without separate *chullauns* or invoices, laden on more than one boat or one kurroo of bullocks, it is liable to confiscation with the boats and bullocks. Sect. 36.

Salt not proceeding to the place and by the route prescribed in the rowannah or other papers, shall be held to be contraband. Sect. 45.

All proprietors of Salt covered by a rowannah, who may dispose of any within the line of Chowkees, are required daily to certify on the back of the rowannah the quantity sold or disposed of by them, and when practicable must obtain the attestation of the nearest Chowkey Darogah. Sect. 46, Cl. 1.

Any person neglecting to do this, will be liable to a penalty of five Rupees per maund of Salt disposed of and not written on the Challaun. Ditto, Cl. 2.

When the whole of the Salt is sold within the limits of the Salt Chowkey, or exported, the rowanna is to be delivered up to the nearest Chowkey. Ditto, Cl. 3.

For omission of the above, the penalty is one Rupee per maund of the Salt specified in the rowanna. Ditto, Cl. 4.

No salt but that of Government shall be imported into Bengal, Behar or Orissa. Any person who offends against this rule shall be liable to a fine of ten Rupees per maund, and the Salt as well as

bullocks, carriages, &c. transporting it, shall be confiscated. Sects. 48 & 49.

If more than one maund of the Western salts be found within eight kos of the districts of Shahabad and Sarun, it shall be liable to confiscation. Sect. 50.

All native officers of every description are required to assist in suppressing any illicit transactions in Salt. Sect. 54.

Any manjees, boatmen, bullock drivers, &c. who knowingly convey contraband Salt, shall be liable to imprisonment not exceeding six weeks, and to a fine not exceeding fifty Rupees. Sect. 55.

Seizure of Salt.

Any person who may, by force or threats, prevent an officer from seizing suspected Salt, or may forcibly resist him in the execution of his duty, shall be, in addition to punishment for any offence or breach of the peace which he may commit, liable to a fine not exceeding two hundred Rupees. Sect. 56.

Darogahs, or other officers in charge of Thanahs or Chowkies, are, when called upon, or when apprehending a breach of the peace, to assist in effecting the seizure of contraband Salt. Sect. 57.

A Salt Agent, or Superintendent of Chowkies, may order houses and premises to be searched, on receiving credible information, in writing and on oath, that illicit Salt is deposited in the place in question. Sect. 60.

Such a search should not be made by any officer of the Salt department without being accompanied by a police officer. Sect. 16.

Subordinate officers of the salt department, when immediately concerned in the attachment of illicit Salt, shall be entitled to a per centage of 10 to 15 per cent. according to circumstances. Sect. 89.

Adulteration of Salt.

Any alimentary Salt adulterated by a mixture of *kharee noon*, *phool kharee noon*, or *pukwa* salt, or any description of impure and bitter salt, shall be confiscated

and destroyed, and the person who adulterated it, or knowingly sold it in that state, shall pay a fine of ten Rupees per maund on the Salt found to be adulterated, Sect. 77. The fine commutable, if not paid, to imprisonment not exceeding six months. Sect. 78.

The fact of adulteration, when brought to the knowledge of the Magistrate, shall be ascertained by a reference to the Civil Surgeon of the Station, or to a Committee of respectable dealers in Salt, or in any other mode most likely to elicit the truth. Sect. 79.

The order of the Magistrate in such a case is applicable to the Civil Court. Sect. 80.

If any mixture of foreign Salt with the Salt manufactured on account of Government, be found within the provinces of Bengal, Behar and Orissa, the salt so mixed shall be confiscated and sold, and the person in whose possession it was knowingly kept shall forfeit five rupees per maund. Sect. 85.

Importation of Salt. Foreign Salt, when imported by sea, shall be liable to a duty of 3 Rupees per maund. Reg. XV. 1817, Sect. 2.

All alimentary salt, not being salt purchased at the Company's public sales, when imported into, or in transit through, any part of the British territories westward of Behar, shall be liable to a duty of one rupee eight annas per maund on *Lahooree*, *Saumer* and *Doodwana* Salt, and one Rupee on all other kinds of Salt. Reg. XVI. 1829, Sect. 3.*

All alimentary salt as above, shall pay a further duty of one rupee per maund on entering the province of Benares. Sect. 4.

Sect. 3 and Sect. 4 of this Regulation are applicable to the district of Gorukhpore. Sect. 9.

* The above Section has just been virtually rescinded by Act XIX. of 1843. See further, Chapter VIII.

CHAPTER VIII.

CUSTOMS; OR DUTIES ON GOODS IMPORTED AND EXPORTED.

Gross produce in 1839-40,	Rs.	41,03,298
Deduct charges,		4,61,634
Net Revenue,		36,41,664*

Remarks on the revenue derived from the customs.

This branch of revenue is perhaps of all others that which requires most care and attention to be properly regulated. A tax on the profits of the foreign trade of the country is, except under special circumstances, preferable to a tax on salt, though in general more objectionable than a tax on land rent or on spirituous liquors. But, in attempting to derive a revenue from commerce, particular care must be taken that the attempt does not annihilate commerce. It has more than once happened that a Government, by levying on some commodity a higher duty than that commodity was able to bear, has entirely put a stop to its importation or exportation. On the contrary, many instances could be quoted, in which a reduction of the rate of duty levied on a commodity, has, by diminishing its price, so much increased its consumption that the aggregate revenue has, notwithstanding the reduction in the rate of duty, greatly increased.

Duties on Importation.

It is to be remarked that all duties imposed on goods Imported into a country, are ultimately paid by the inhabitants of that country. For instance, an English merchant who sends English cloth to India, has at first, of course, to pay the importation duty, but he knows that beforehand, and takes it into account. He says, for instance, "this cloth sells in Calcutta for ten rupees a piece, I can get it in Liverpool

* This sum includes apparently the *sea* Customs of the three Presidencies of Bengal, Madras and Bombay. The customs of the Upper Provinces produce a return about equal in amount to the above.

for eight rupees, it will cost me eight annas freight and insurance to carry to Calcutta, and eight annas import duty, total nine rupees." If he then considers one rupee per piece sufficient profit, that is, as much profit at least as he is likely to get in any other branch of trade, he sends his cloth to India; otherwise he does not. If at any time the duty should be increased, say, to one rupee eight annas, this would at the supposed price leave him no profit, and would at once prevent his sending any cloth. Under such circumstances, the cloth being still wanted gets scarce and increases in price. As soon as this increase is sufficient to afford again a fair profit to the importer, the importation begins to take place as before. When, on the contrary, the duty on a certain description of goods is taken off, the importers of that kind of goods, seeing the prospect of a larger profit, send a larger quantity of goods; but this leads to a reduction of price, and ultimately the rate of profit becomes again the same, or very nearly the same, the price having decreased in proportion to the duty taken off.

Although the foreigners who import goods into a country, are eventually repaid the importation duty, its amount is not altogether a matter of indifference to them, because a higher or lower rate of duty tends to increase or diminish the consumption of the goods imported. In the first instance the importer is to some extent benefited since the extent of his trade is increased, and in the latter case he is injured. Besides, the duty may be so high as altogether to put an end to the importation. For instance: Suppose, that in the case above alluded to, the cloth which, when the duty amounted to eight annas, sold in Calcutta for ten rupees a piece, was just equal in every respect to a piece of cloth which could be manufactured in India, with a fair profit (say *ten* per cent.), for eleven rupees eight annas. Under the low rate of duty, the English cloth is purchased in preference to the Indian cloth, since it is equal in every respect to the latter and sells one rupee eight annas cheaper. If, however, the importation duty be raised to three rupees, the English manufacturer can no longer compete with the Indian weaver, since the latter can sell his cloth at eleven rupees eight annas per piece, while the other having to pay an importation duty of three rupees would not at the price in ques-

tion realize any profit. In such a case the importation of cloth from England would cease altogether, the Government would consequently lose the whole of the importation duty they obtained from it, and the inhabitants of India would have to pay one rupee eight annas per piece of cloth more than they used to do before. Thus, both the Government,* and their Indian subjects, as well as the English manufacturers, would be losers by the increase in the rate of duty. It is true that the Indian weaver would gain by it, but his gain would be at the expense of the Government and of his countrymen who require the cloth in question; and that gain would not even be equal to the loss of the latter, since it would be only one rupee per piece while their loss on the same would amount to one rupee eight annas. In the above case the highest rate of duty which the cloth could bear, would be somewhat less than two rupees, or just what would allow of the cloth imported being sold at a price a little below that at which it could be manufactured in India.

Duties on Exportation.

With regard to the duties on Exported goods, two circumstances must be taken into consideration. Either the commodity on which the export duty is laid, can be produced in other countries with equal facility, or it cannot. In the former case the duty imposed will put a stop at once to exportation, and consequently will not be levied at all. In the latter case, provided the duty be not too high, and does not quite counterbalance the superior advantages under which the commodity is produced in the country where the duty is levied, the exportation will continue nearly as before, and the duty will be paid by the foreigners who buy that commodity. This will be made clear by examples.

Suppose that indigo of a certain quality can be exported from India to the chief European markets at a prime cost of 150 Rupees per maund, and that no other country in the world can export indigo of

* The loss to the Government would of course ultimately fall on the people, from whom the amount of the former tax would have to be levied in some shape or other. Thus, the people's loss would be the full amount of the tax, in addition to the increase of price to be paid for cloth.

the same quality at a less cost than 180 Rupees per maund. In this case it is very clear that provided India can produce a quantity of indigo equal to the consumption of Europe, none but Indian Indigo will be exported there. Indian Manufacturers will be able to sell that article for a hundred and seventy, or a hundred and seventy-five Rupees, thus realizing a large profit at a price which, not only would afford no remuneration to the merchants of other countries, but would actually be to them a losing one to the extent of from five to ten Rupees per maund. If, under these circumstances, the Indian Government were to lay an export duty on Indigo of thirty Rupees per maund, Indian manufacturers would be able just to compete with foreign merchants in the European market, that is, they would be able to bring their Indigo to the market at the same prime cost as those foreign merchants, and the price of Indigo would rise in Europe to an amount sufficient to afford a fair profit to the manufacturer, whose prime cost of one maund would now be, according to the supposition, 180 instead of 150 Rupees. The fact of there being a competition with other countries, implies that the exportation from India would be less than before, since, the consumption being supposed to remain the same, (the increase of price would in reality reduce it) what was supplied from other countries would not be taken from India. If the foreign manufacturers were contented with a smaller profit than the manufacturers of India, or if they succeeded by better management in saving something on the prime cost of the commodity in question, it is very possible that the duty of 30 per cent. would in a very short time put a stop to the Indian exportation altogether. A duty of fifteen or twenty per cent. on the contrary, by leaving a decided advantage to the Indian Manufacturer, would not, under the supposed circumstances, have interfered with the quantity of indigo exported from India, and would thus have yielded a large revenue to Government.

On commodities for the production of which the country does not possess peculiar advantages, it does not appear advisable to lay any Export duty. This would be placing the manufacturers of that country under a positive disadvantage, with regard to the manufacturers of other countries where no such duties are levied; and consequently

would deprive the nation of one source of wealth. In point of fact it may be laid down as a general principle that when an export duty is imposed on any commodity, it will put a stop to its exportation unless the country possesses peculiar advantages for producing it, equal at least to the amount of the duty. Where the duty does not altogether counteract those peculiar advantages, the exportation will go on nearly as before, the price in the foreign market increasing after a short time to the amount of the duty, and the only difference for the exporter being the decrease of consumption which an increase of price may probably cause. Where the duty just counteracts the superior advantages of the country, the exportation will still continue, but diminished to the extent of the foreign competition it will create.*

When a country is the only one in which a certain commodity is produced, the export duty on that commodity may be many times higher than the prime cost of its production. In such a case, the only checks to the amount of the duty, are: first, the fear of altogether putting a stop to consumption by an increase of price which would put the commodity beyond the reach of consumers, or at least beyond their disposition to buy; and secondly the difficulty of preventing smuggling where the duty is so high as to offer a great inducement to a contraband trade. This last consideration is probably that which has prevented the Indian Government from levying the Opium revenue by an export duty, instead of doing so by reserving to itself the exclusive right of producing Opium. With the great number of Police and Revenue officers all over the country, it is scarcely possible to cultivate a single field of poppy without the circumstance becoming known to Government, and the illicit cultivation being immediately suppressed. If, on the contrary, the poppy could be cultivated by all, and opium was allowed to circulate freely through India, the duty being levied only on the frontier, it is probable that large quantities would be smuggled, and would thus escape the payment of the tax altogether. The greater the rate of duty the greater of course would be the inducement to evade it. The tax on opium has sometimes exceeded ten

Smuggling.

* See further, Mr. McCulloch's Remarks.

times the prime cost of the drug, and, judging from experience and analogy, no line of custom Chowkies could have prevented smuggling to a large extent, where the inducement was so great to carry on a contraband trade.

The loss entailed by smuggling on the public revenue, is not the only objection to high duties. The fraud or violence which usually accompanies that offence, owes its existence of course to the imposition of taxes on Importation, Exportation, Production or Consumption, and to that alone. And thus excessive duties, by creating a strong temptation to evade the law, tend directly to corrupt the moral tone of society.

It is sometimes supposed that smuggling diminishes the hardship of the tax, and brings down prices, but this in general may be considered as an error. Those who secretly buy the smuggled goods, *knowing* them to be *smuggled*, and thus being more or less directly concerned in defrauding the revenue, may no doubt pay less for those goods than they would pay for others which have passed through the Custom House; but this diminution of price is not general, and smuggled goods brought into the market to compete with goods which have paid the duty, will not sell cheaper than the latter. So long as goods continue to be imported through the Custom House, those goods must generally regulate prices, or, in other words, afford a fair profit to the merchants who import them, or their importation would cease altogether. The smuggler, and his accomplices, are thus in fact the only persons who benefit by smuggling, unless that trade should be carried on with so much success as to drive the regular trader out of the market, and defeat the object of the duty altogether. It is therefore desirable that the Government, when compelled to lay a duty on a certain commodity, should take all possible precautions to prevent its being evaded. If one third or one fourth of the duty be evaded, and a more efficient establishment would put a stop to the smuggling trade, the total produce of the tax would of course increase in proportion to the extent of the smuggling trade suppressed, less the additional establishment found necessary to effect that suppression. The only difference with regard to the people, would be, that

the demoralizing trade of the smuggler would cease, and that *all* would pay the tax which perhaps *some* (directly or indirectly concerned with smuggling) illegally escaped before. If the additional revenue thus obtained was not indispensable to Government, the rate of duty might be diminished in the proportion of the increased aggregate produce. For instance, if a duty of one rupee under the former system produced a net return of 90,000 Rupees, and under the improved management gave a return of 120,000 Rupees, the duty might be reduced to twelve annas per maund instead of one Rupee.

Alterations in the rates of duties.

When a duty has once been imposed on an article of commerce which continues to be imported under that duty, the tax must not be removed, or materially reduced, without due notice, or the merchants who have imported that article will lose part of the duty they have paid on the go ds they have now in their hands, and which in future may be imported at a reduced rate. For instance, suppose a duty on Salt, of one Rupee per maund, should be all at once reduced to eight annas. All the Salt merchants, who have a stock of Salt undisposed of, would lose upon it about eight annas per maund, that is, all the duty taken off, because Salt would be immediately imported at the reduced duty, and would soon be offered for sale in every bazar eight annas cheaper than it was before. It is clear that if salt merchants, paying a duty of one rupee per maund of salt they import, find it profitable to sell it in a given market, say Dehli, for one rupee eight annas a maund, they will find it equally advantageous to sell it at the same place for one Rupee when they pay a duty of only eight annas. If a previous notice of two or three months, or six months, was given previous to the reduction of the duty, the merchants who have stored up Salt, would have time to dispose of it at the usual prices before the importation at the new rates could begin, and they would thus be saved from the heavy losses which may otherwise fall on them.

If, on the contrary, a tax be first imposed on an article which before was admitted free of duty, or if the former duty be raised, no previous notice need be given; in fact, if given it would in some measure defeat the object of the tax, because the importation would

be increased as much as possible during the period in which that article was still to be considered free of duty, or imported at the former low rate. Besides, no one is likely to lose much by the want of a previous notice: the foreign merchants who have stored up a large quantity of the article newly taxed, have only to delay for a short time the importation of their goods, and provided the tax be not so large as materially to interfere with the quantity of that article usually imported from abroad, and consumed in the country, the price will gradually rise to the amount of the duty. Thus, if the price was formerly two Rupees per maund, and the duty imposed be eight annas, the price will rise to 2 Rupees 8 annas, so that the foreign merchant may again begin to import with the same profit as before.

Different kinds of Duties.

There are several ways of imposing a duty on commodities: sometimes the duty is fixed with regard to the quantity of goods, as so much per yard of cloth, per maund of indigo, per chest of opium, or per bag of rice, &c.; or it is proportioned to the value of the commodities, being a percentage levied on their estimated price. These last are what are called duties *ad valorem*, that is, duties proportional to the value of the goods. The first kind of duties is objectionable in so far that commodities of the most inferior quality pay as much as the richest goods of the same *kind*. If, for instance, cotton cloth be made liable to pay one anna per yard on importation, the finest muslin brought to this country, and the coarsest cotton cloth imported, will pay exactly the same amount per yard; and, as the prime cost of one may be to that of the other as a hundred to one, the same nominal duty which will be hardly perceptible on the former will fall extremely heavy on the latter. On the former it may be equal only to one per cent. of the value of the muslin, while on the latter it will amount to one hundred per cent of the price of the coarse cloth.

Where the duty is very trifling with regard to the value of the commodity, it may be unobjectionable to fix it on quantity. For instance, if a duty of three Rupees per maund be laid on the exportation of indigo, the worst indigo exported being probably worth about 100 Rupees a maund, the excess of duty thus levied on that indigo

is, with reference to its value, so inconsiderable, as scarcely to render it desirable to substitute an *ad valorem* duty for a duty on quantity, the latter being the more convenient of the two.*

Here is an abstract list† of the chief articles upon which Import or Export duties have been imposed by the Custom laws of the Bengal Presidency, and of those which may be imported or exported free of duty.

Extract from Act XIV. of 1836.

IMPORT DUTY.		EXPORT DUTY.	
Horses and other animals,	free.	Sugar and Rum,	free.
Books,	free.	Opium,	Do.
Metals from Great Britain,	3 per cent.	Rice,	1½ anna per md.
Woollens from Do.	2 „	Indigo,	3 Rs. per maund.
Cotton pieces from Do.	3½ „	Lac dye and Shell lac,	4 per cent.
Silk from Do.	„ „	Silk,	3 as. per seer.
Opium,	24 Rs. per seer.	Tobacco,	4 as. per maund.
Salt,	3 Rs. 4 as. per maund.		
Coffee,	7½ per cent.		
Wines, &c.,	10 „		
Tea,	10 „		

The above are the duties levied on commodities imported from, or exported to, *England* in *British Ships*, but if the importation be *from*, or the exportation *to*, some other country, or the goods be carried on ships not belonging to British subjects, the duties are doubled.‡

* A duty *ad valorem*, requires of course an estimate to be made of the value of the goods.

† This list refers only to Importations or Exportations *by Sea*. See further for the duties on Land Importations and Exportations.

‡ The relative value of Calcutta Imports and Exports to and from different countries, is as follows:

Mr. McCulloch's Remarks.

Mr. McCulloch, in his Commercial Dictionary, makes on the above law the following remarks:* "The policy of charging duties on exported articles, and of making so great a distinction between the duties on articles imported or exported in British and in Foreign ships, seems very questionable. The great difficulty under which India labours, in a commercial point of view, consists principally in her inability to furnish equivalents for foreign imported goods, and to make the necessary payments abroad; when such is the case, it is not a little contradictory to lay duties on exports. The most obvious considerations of expediency and common sense would suggest that they should be duty free. There can be no doubt that the stimulus this would give to trade, would by increasing the public wealth, infinitely more than compensate the Government for the loss of the inconsiderable sum produced by the duties with which they (the goods exported) are charged."

IMPORTS.		EXPORTS.	
From England,	60 per cent.	To England,	45 per cent.
,, China,	14 ,,	,, China,	22 ,,
,, United States,	2½ ,,	,, United States,	4½ ,,
,, France,	3 ,,	,, France,	7 ,,
,, Singapore,	7 ,,	,, Singapore,	7 ,,
,, Coast of Coromandel,	3½ ,,	The residue to the Coasts of Malabar, Coromandel, the Arabian and Persian Gulfs, the Mauritius, &c.	
,, ,, of Malabar,	3½ ,,		
,, Pegu,	3½ ,,		

In 1833-34, the Exports were worth about 5 crores and 34 lakhs; the Imports 2 crores 54 lakhs.

The chief Exports from Calcutta are Opium, Indigo, Rice, Silk, Sugar, Saltpetre, Cotton, Lac dye, Shell lac.

The chief Imports are: Cotton piece goods, Cotton twist, Copper, Iron, Spelter, Woollens, Wines, Coffee, Jewellery, Watches. (McCulloch's Commercial Dictionary.)

* See the word "Calcutta" in the supplement to the work quoted.

"The duties on articles of importation do not appear to be at all excessive provided they were equally distributed. The best informed parties concur in opinion, that the effect of the discriminating duties, is to diminish trade without promoting to any material degree the employment of British Shipping, and to provoke retaliatory measures on the part of the foreigner."

The excess duty levied on goods imported from other countries than England, or on other than British ships, is in fact a tax laid on the people of India, partly for the sake of the Indian revenue and partly for the benefit of England.*

CUSTOM LAWS OF THE WESTERN PROVINCES.

The duty on Importations and Exportations by Land, are levied chiefly on a line on the right bank of the Jumna above Allahabad. Out of about forty lakhs of Rupees of revenue realized from the Customs of the Western Provinces, one-half is said to be levied on the importation of Salt and one-fourth on that of Sugar. This consideration has lately led to an important reform in the North Western Customs. Act XIV. of 1843, has entirely modified the tariff which, instead of being made to include a large number of articles greatly adding to the inconvenience and oppressiveness of the taxes on Importations and Exportations without materially adding to their productiveness,† has been reduced to three descriptions of goods, viz. Salt, Sugar and Cotton. The provisions of the important Act in question are briefly as follows.

Act XIV. of 1843.

A duty of 2 Rupees per maund is to be levied on the import of Salt into the Western Provinces, with an additional duty of 1 Rupee for transmission of the same to the Eastward of Allahabad. Sect. 2.

* Notwithstanding the defects of the Indian tariff it is more liberal in its principles than the tariff of some of the most enlightened countries of Europe, as England, France, &c.

† Duties have been abolished by the late Act on 121 articles. Among these were 48 articles on which the aggregate amount of duty paid during the last three years averaged only 1500 Rupees.

The import of uncleaned cotton is subjected to a duty of 4 annas and that of cleaned cotton to 8 annas per maund. Sect. 2.

The import of Sugar is, as before, prohibited. Ditto.

On the export of all clayed and refined Sugar a duty of 8 annas per maund is to be levied, and 3 annas per maund is the duty fixed on the export of Goor and all unclayed or unrefined saccharine produce. Ditto.

The manufacture of Alimentary Salt in the North Western Provinces, without the express sanction of the Government, is altogether prohibited, and any person engaging in such a manufacture, or constructing works to engage in it, and any Zemindars or their Agents conniving at it, shall, on conviction before the Magistrate of the District, be liable to pay a fine not exceeding 500 Rupees, and, in case of non-payment, may be punished by imprisonment not exceeding 6 months with or without hard labour. The Salt works shall be destroyed and the Salt found in them confiscated. Sect. 4.

The Collectors of Customs and of Land Revenue, each in their respective districts, are authorized to destroy all illicit Salt works, seize the Salt, and apprehend the persons concerned, who are to be made over by them to the Magistrate of the District. Sect. 5.

All articles imported or exported in contravention to this Act, or to any order under its provisions, and all Boats, Carriages, Conveyances, and Animals used in transporting the same, shall be confiscated. Sect. 6.

All persons guilty of contravention to this Act, or to any order under its provisions, and any Zemindars or their Agents conniving at such contravention, shall, on conviction before the Magistrate, be punished by a fine not exceeding 500 Rupees, and on non-payment, by imprisonment not exceeding 6 months with or without labour. Sect. 7.

It shall be lawful for all custom officers to search any conveyances and any packages, on reasonable grounds of suspicion that any contraband articles are contained therein, and they may detain such articles as are liable to confiscation. Sect. 8.

Seizures of goods under this Act shall be immediately reported by the Collector, or Assistant Collector, of Customs or Land Revenue, to the Commissioner, who will order the confiscation of the goods or impose a lesser fine as he may think fit. Sect. 9.

It shall be lawful for Custom officers to apprehend any person on reasonable grounds of suspicion that such a person is liable to punishment under this Act, and to make him over for trial to the Magistrate. Sect. 10.

Any Custom officer who shall, without any reasonable grounds of suspicion, search any conveyance or package, shall, upon conviction before the Magistrate, be punishable by a fine not exceeding 250 Rupees to be paid to the aggrieved party, and, in case of non payment of such fine, by imprisonment not exceeding 3 months. Should the said officer apprehend any person without sufficient ground, he shall be liable to a fine not exceeding 500 Rupees to be paid to the aggrieved party, or, on non payment of that fine, to imprisonment not exceeding six months. Sect. 11.

This Act does not apply to the Saugor or Nerbudda territories, or to the Districts of Ajmere. Sect. 14.

CHAPTER IX.

MISCELLANEOUS REVENUE.

1. *Judicial Revenue.* 2. *Post Office.* 3. *Mint.*

SECTION I.

Judicial Revenue.

The Judicial Revenue is derived from fees, fines, &c. It was in 1839-40 somewhat higher than it had been for the preceding 25 years. In 1814-15 it amounted to Rupees 6,48,690; in 1818-19 to Rupees 7,37,439; in 1822-23 to Rupees 5,58,751, and in 1839-40 to Rupees 7,43,899. The Judicial expenses however have varied much more, and appear to have been considerably reduced. In 1821-22 they amounted to Rupees 82,04,115, whereas in 1839-40 they are laid down at only Rupees 67,01,063.

Judicial fines.

This branch of revenue has nothing particularly objectionable in principle, except* with regard to judicial fees, which, however, have been entirely abolished in the Bengal Presidency. The nature of the objections which may be made to such fees, will be understood by reading the remarks in Chapter V. on the taxing of law papers.

SECTION II.

Post Office.

The Post Office Revenue is derived from the postage of letters, &c.

In 1839-40 the gross receipts are stated to have been Rupees 5,62,363 and the expense, Rupees 4,91,472, which leaves a net sur-

* *Stamps* are not included here under the head of "Judicial Revenue."

plus of Rupees 70,891. Provided the revenue derived from the Post office be not excessive, it may perhaps not be considered as very objectionable. It would be highly desirable, however, to introduce into this country the system, now adopted in England, of a uniform and low rate of postage for places however distant from each other. A letter may now go from any part of England to another for one penny (about $\frac{3}{4}$ of an anna) and, as the postage is levied by means of a stamp, which is purchased before hand and delivered with the letter at the Post office, the officers of that department have no funds to receive, very few accounts to keep, and the whole business may be managed with much greater facility and economy. The chief expenses of the Post office, constituted as it is in India, are not the carrying of the letters from one place to another, but the establishments of Moonshees, Writers, &c. whom it is found necessary to keep up. The penny postage has been established in England only for a few years and the number of letters which now go through the Post office is about treble what it was before.

ABSTRACT OF THE POST OFFICE REGULATIONS.

ACT XVII. OF 1837.

Prohibition of private posts.

The exclusive right of conveying letters by post is assumed by Government under this Act, and any person convicted of being knowingly concerned in receiving for conveyance, conveying or delivering, letters or packets in opposition to the Government privilege and without a license, is liable to a fine of Fifty Rupees on every letter or packet received, conveyed or delivered, by him. Sects. 2, 3, 4, 5.

Postage.

The Postage on letters or packets sent per post or banghy, may be paid either on despatching the letter or packet, or on receiving it, at the option of the sender. Sect. 6.

Any letter or packet, bearing postage, may be refused by the person to whom it is addressed, and that person cannot be called upon to pay the postage due on the said letter or packet, provided he re-

turns it unopened. If he opens it however he is bound to pay the postage, although if it should appear that the letter or packet was maliciously sent for the purpose of annoying the person to whom it is directed, the Post Master shall remit to him the said postage. Sect. 21.

Every letter or packet rejected unopened by the person to whom it is directed, shall be returned by post to the sender who is bound to pay the return postage. Sect. 22.

If the sender of such a letter or packet be unknown, the letter or packet shall be opened by the Post Master of the station where it has been refused. Sect. 23.

If any person refuses to pay postage which he is legally bound to pay, the Local Post Master is authorized to withhold from that person, until that postage be paid, any other letter bearing postage. Sect. 24.

Unclaimed Letters.

Any letters or packets which have remained for three months unclaimed at any Local Post Office, shall be transmitted to the General Post Office. Sect. 25.

A list of such unclaimed letters and packets in the General Post Office, shall be published every three months in the official Gazette. Sect. 26.

If a letter or packet remains eighteen months unclaimed in the General Post Office, it shall be opened by the Post Master General, and all valuable property it may contain shall be put into the Government Treasury for the benefit of any party who may have a right to it, and, twelve months after the opening of such a letter, if it continues to be unclaimed, the Post Master General may destroy it. Sect. 27.

Steam and Ship Postage.

A Steam postage, or ship postage, fixed by the Governor General in Council, shall be levied on all letters sent or received by sea. Sect. 13 and 14.

Responsibility.

The Government shall not be responsible for any loss or damage, which may occur in respect of any thing entrusted to the Post Office for conveyance; and no person employed by Government in the Post Office Department, shall be answerable for any such loss, unless that person caused such loss maliciously or fraudulently. Sect 31.

Tolah.

The tolah of weight mentioned in this Act is the tolah of 180 grains troy, being the standard weight of a Company's Rupee. Sect. 38.

Fraudulent Attestations. (Vide further Act XX. of 1838.)

If any person shall attest by his signature, that a packet contains none but documents of the description stated in Table No. 2, and such a packet shall be found to contain any other writing whatever, that person shall be punished with a fine of Fifty Rupees. Sect. 9 and 10. *(See further Tables No. 1, 2, 3, 4, 5.)*

Any person sending any writing whatever in a packet stated to be of the description in Table No. 3, shall be punished with a fine of fifty Rupees. Sect. 10.

Proof sheets marked as such may be sent by post at the rates mentioned in Table No. 3, provided they be brought to the despatching office open, and be sealed in the presence of the person in charge of that office. Sect. 11.

Suspicion of fraud.

If any Post Master should suspect that any letter or packet in his office contains any contraband article, or contains some other writing besides that which it purports to contain, it shall be lawful for that officer to summon the person to whom the letter or packet is directed, to attend at his office, personally or by agent, within 48 hours from the arrival of the letter or packet at the Post Office, and to open the letter or packet in the presence of that person or that person's agent; and if that person, or agent, does not attend, the Post Master will open the letter or parcel in their absence. Sect. 30.

Commanders of Vessels.

Besides the above, Act XVII. of 1837 provides for Commanders of Vessels delivering as speedily as possible, at the first Post Office Station they may reach, all the letters they carry, and which were not specially entrusted for separate delivery, on pain of a fine of 1000 Rs. Sects. 15 and 16.

Commanders of Vessels are also required under the same penalty to receive all letters which may be sent to them by a Post Master, and to grant a receipt for the same. Sect. 20.

Commanders of Vessels are entitled to the sum of one anna for every letter or packet delivered by them. Sect. 17.

If a letter be transhipped for transmission to any place within the Territories of the East India Company, the Commander of the Vessel to which it may be transferred, shall be entitled to only half an anna, but the Commander of the former Vessel will receive one anna. Sect. 18.

Frauds by persons employed in the Post Office.

Sections 33, 34, 35, 36, 37 provide for the punishment of persons employed in the Post Office Department who may be guilty of fraudulently appropriating any letter or packet passing through their hands, or may commit any other fraudulent act in the discharge of their duties.

Act XII. of 1838.

Lines without Banghy Post.

When there is no Banghy Post established on any line of road, letters or packets exceeding in weight 12 tolahs, but not exceeding 40 tolahs, shall be transmitted by the Letter Post under the following rules.

1st. If the letter or packet be of the description specified in Tables No. 1, 2 and 3 of Act XVII. of 1837, the postage shall be charged at the rates therein stated in proportion to its weight.

2nd. If the packet be attested on the cover not to contain any of the things specified in Tables No. 1, 2, 3, it shall be forwarded by Letter Post at the rates stated in Table No. 4 for Banghy parcels. The Post Master may at the place of delivery proceed to verify, in the manner stated in Section 30, Act XVII. of 1837, whether no fraud has taken place, and, as in cases under that Act, the Government is not responsible for any loss that may occur, nor does the responsibility of such a loss fall on any officer of the Post Office Department, unless it should have been maliciously or fraudulently caused by him. Sect. 2.

Superscribed Attestation.

Responsibility.

If packets exceeding 40 tolahs be brought for despatch by the letter post at Banghy rates, the same may be forwarded as above, but it shall be discretional with the Post Master to send them at such a time and in such a manner as may be convenient. Sect. 3.

The penalties of Act XVII. of 1837 relative to fraud committed, or attempted to be committed, by false attestations, are equally applicable to this Act. Sects. 5, 6, 7.

Penalties for fraudulent attestation.

All fines incurred under this Act, or under Act XVII. of 1837, shall be demanded in writing by the Post Master General, or the Local Post Master, and, if not paid on such a demand, shall be levied with costs, on conviction before a Magistrate, by distress and sale; or, if by return of the Magistrate's Warrant it shall appear that no sufficient distress can be had thereon, it shall be lawful for the Magistrate to cause the offender to be committed to prison, there to remain for two months unless the fine be sooner paid. Sect. 8.

It shall be lawful for the Post Master to detain any letter or packet in respect of which a party shall have become liable to a fine under Act XVII. of 1837, or under this Act, until the fine and all reasonable charges shall have been paid. Sect. 9.

GOVERNMENT ORDERS, 30TH AUGUST, 1837.

Hours during which Post Offices are open.

At Provincial Post Offices, Banghy parcels and Newspapers will be received for despatch at the ordinary rates of postage from 10 A. M. till 4 P. M. and letters till 5 P. M., but they may respectively be received till 5¾ P. M. on the sender paying an extra half Rupee, to be distributed at the discretion of the Post Master General, among the Post Office servants on whom the extra trouble may fall. Sects. 17 and 19.

Letters cannot be returned.

Letters once delivered into any Post Office cannot be recalled by the sender under any circumstances, but Newspapers and Parcels may be recalled by the sender, on paying the postage which would have been due on such paper or parcel if forwarded. Sect. 29.

No change due.

The servants at the several Post Offices are not bound to give change to parties sending or receiving letters. Sect. 31.

Receipts of letters.

Receipts will not be granted for letters, papers or parcels received at any Post Office for despatch, unless they be presented ready written. Sect. 32.

Overland letters.

All letters, or packages, intended for transmission by the Overland Mails, must be specially superscribed to be sent by that conveyance. General Post Office Notice, 15th March, 1839.

Schedule of Postage duties to be substituted for Tables No. 1, 2, 4 and 5 of Schedule A. Act XVII. of 1837.—Government Orders, 14th August, 1839, No. 134.

Table No. I.		No. II.
Distance not exceeding Miles.	Letters exceeding ¼ tolah and not exceeding 1 tolah. Double postage.	Law papers, accounts and vouchers attested as such with the full signature of the sender, exceeding 3½ tolahs but not exceeding 6 tolahs. Double postage.
100	1 anna.	0 2
200	2	0 4
300	4	0 8
400	6	0 12
500	6	0 12
600	8	1 0
700	8	1 0
800	10	1 4
900	10	1 4
1,000	12	1 8
1,100	12	1 8
1,200	14	1 12
1,300	14	1 12
1,400 and upwards	1 Rupee.	2 0
	Single postage being added for every additional half tolah weight.	Single postage, or one-half of the above, being added for every additional 3 tolahs weight.
Letters not exceeding a quarter tolah in weight pay only single postage, that is half the amount in the above list.		Law papers, &c. weighing less than 3 tolahs pay only single postage, that is, one-half of the above rates.

No. III.

Newspapers, Pamphlets and other printed or engraved papers, packed in short covers open at each end. Act XVII. 1837.

Distance not exceeding.	Printed in India.			Imported.	
	Weight not above 3½ tolahs.	Above 3½ but not above 6 tolahs.	Above 6 but not above 9 tolahs.	Not exceeding 6 tolahs.	Exceeding 6 but not exceeding 12 tolahs.
Miles.	Annas.	Annas.	Annas.	Annas.	Annas.
20	1	2	3	1	2
400	2	4	6	2	4
above 400	3	6	9	3	6
	Single postage being added for every additional 3 tolahs.			Single postage being added for every additional 6 tolahs.	

No. IV.

Parcels sent by the Public Banghy not exceeding 600 tolahs in weight, nor 15 inches long by 12 deep and 12 broad, i. e. 2160 cubic inches. Government Order, 14th August 1839, No. 134.

Miles	Not exceeding 50 Tolahs	100 T.	150 T.	200 T.	250 T.	300 T.	350 T.	400 T.	450 T.	500 T.	550 T.	600 T.
	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.	Rs. As.
100	0 3	0 6	0 9	0 12	0 15	1 2	1 5	1 8	1 11	1 14	2 1	2 4
200	0 6	0 12	1 2	1 8	1 14	2 4	2 10	3 0	3 6	3 12	4 2	4 8
300	0 9	1 2	1 11	2 4	2 13	3 6	3 15	5 8	5 1	5 10	6 3	6 12
400	0 12	1 8	2 4	3 0	3 12	4 8	5 4	6 0	6 12	7 8	8 4	9 0
500	0 15	1 14	2 13	3 12	4 11	5 10	6 9	7 8	8 7	9 6	10 5	11 4
600	1 2	2 4	3 6	4 8	5 10	6 12	7 14	9 0	10 2	11 4	12 6	13 8
700	1 5	2 10	3 15	5 4	6 9	7 14	9 3	10 8	11 13	13 2	14 7	15 12
800	1 8	3 0	4 8	6 0	7 8	9 0	10 8	12 0	13 8	15 0	16 8	18 0
900	1 11	3 6	5 1	6 12	8 7	10 2	11 13	13 8	15 3	16 14	18 9	20 4
1,000	1 14	3 12	5 10	7 8	9 6	11 4	13 2	15 0	16 14	18 12	20 10	22 8
1,100	2 1	4 2	6 3	8 4	10 5	12 6	14 7	16 8	18 9	20 10	22 11	24 12
1,200	2 4	4 8	6 12	9 0	11 4	13 8	15 12	18 0	20 4	22 8	24 12	27 0
1,300	2 7	4 14	7 5	9 12	12 3	14 10	17 1	19 8	21 15	24 6	26 13	29 4
1,400 and upwards	2 10	5 4	7 14	10 8	13 2	15 12	18 6	21 0	23 10	26 4	28 14	31 8

No. V.

Books, Pamphlets, Packets of Newspapers, or any written, printed or engraved papers, sent by Public Banghy, not exceeding 40 tolahs in weight, and packed in short covers open at each end. G. O. quoted.

Distance not exceeding.	Weight not exceeding 20 tolahs.	
miles.	1 anna for each hundred miles.	
100		
200	2	If the weight exceeds 20, but does not exceed 40 tolahs, the postage is double.
300	3	
400	4	
500	5	
600	6	
700	7	
800	8	
900	9	
1,000	10	
1,100	11	
1,200	12	
1,300	13	
1,400 and upwards	14	

SCHEDULE B. (ACT XVII. 1837.)

Ship Postage to be levied in addition to Land postage on letters received or sent, which have been carried or are to be carried by sea.

Letters not exceeding 3 tolahs.	Newspapers, Pamphlets and other printed papers packed in short covers open at each end, not exceeding 6 tolahs.	Parcels, not exceeding 300 tolahs in weight, up to 100 tolahs will be charged 2 annas, and 2 annas more will be added for every additional 100 tolahs. Beyond 300 tolahs no parcel will be received.
Outward, 2 as. | Inward. 3 as. One anna being added for every additional tolah.	1 anna. One anna being added for every additional 6 tolahs weight.	

Note. The following Table from the Appendix to the Bengal Almanac, will give the facility of approximatively calculating the expense of sending a letter or a parcel of a given weight from one place to another in India.

A POLYMETRICAL TABLE,

Showing the Itinerary Distances, in British Miles, between some of the most remarkable Places of Hindostan.

EXPLANATION.

From Agra to Trichinopoly, ——— 1406 miles.
From Calcutta to Seringapatam, — 1220 ditto.

										Benares	380
									Bidjeeghur	56	436
								Bombay	950	984	850
							Calcutta	1300	621	565	950
						Delhi	1060	965	556	500	115
					Hydrabad	900	1020	480	664	745	830
					Madras	365	1350	1030	770	1029	1110	1190
					Lucknow	1170	810	360	695	1085	186	130	280
					Patna	235	1267	900	660	400	1140	196	155	545
					Poonah	1067	950	670	387	915	1200	98	898	930	796
					Seringapatam	525	1215	1230	290	315	1330	1220	620	1213	1170	1215
					Surat	702	245	1020	880	930	565	756	1310	177	837	905	680
					Trichinopoly	927	225	750	1481	1275	208	540	1473	1240	845	1230	1286	1406

SECTION III.

Mint.

The revenue derived from the Mint is the profit made by Government on the coining of silver and gold. The silver and gold coins of India contain 1/12 of alloy; supposing those two metals to be bought at par, that is, an equal weight of pure bullion for an equal weight of coins of the same metal, the Government would make a profit of 1/12 on the transaction, minus of course the expense of coining. In 1839-40 the Mint gross revenue was Rupees 4,89,423 and the expenses, Rupees 3,01,581; the difference of Rupees 87,842 is the net revenue derived from the Mint in that year.

ABSTRACT OF THE LAWS RELATIVE TO THE COINAGE IN INDIA.

The Company's Rupee weighs 180 grains Troy, or one tolah, and contains 11/12 of silver and 1/12 of alloy. Act XVII. of 1835, Sect. 2.

Rupees. The Company's Rupee, Half Rupee and Double Rupee, are a legal tender in satisfaction of all engagements, provided the coin has not lost more than two per cent. in weight, and has not been clipped or filed or defaced otherwise than by use. Sect. 3.

The Company's Quarter Rupee is not a legal tender except for the fraction of a Rupee. Sect. 5.

Gold Mohurs. The gold coins struck at the Mints of the East India Company are:

1st. A Gold Mohur or fifteen Rupee's Piece of the weight of 180 grains Troy, containing 11/12 of pure gold and 1/12 of alloy.

2nd. A Five Rupee's Piece equal to a third of a Gold Mohur.

3rd. A Ten Rupee's Piece equal to two-thirds of a Gold Mohur.

4th. A Thirty Rupee's Piece or double Gold Mohur. Sect. 7

No gold coin is a legal tender. Sect. 9.

Copper Coins. Act XXI. 1835.

The only copper coins now issued from any Mint within the Presidency of Bengal, are :

1st. A Pice weighing 100 grains Troy.

2nd. A double Pice weighing 200 grains.

3rd. A Pie or 1/12 of an anna weighing 33½ grains. Sect. 1.

The said Pice is a legal tender for 1/64 of the Company's Rupee, the double Pice for 1/32, and the Pie for 1/192 of the said Rupee. Sect. 2.

No copper coin is however a legal tender except for fractions of a Rupee. Sect. 3.

Defacing of the Company's Coin. Act XXXI. of 1839.

Any person who shall fraudulently clip, file, drill, deface, or debase, any current gold or silver coin issued from any Mint of the East India Company, or usually received as money in any part of the Territories under the Government of the East India Company, with intent to make the said coin pass for a current coin, shall be liable on conviction to be transported for life or any term of years, or to be imprisoned for any term not exceeding four years. Sect. 1.*

* Besides the above three sources of Miscellaneous Revenue, there are some others, such as Marine and Pilotage duties derived from the charge made for piloting ships to the town of Calcutta, the House Tax in Calcutta, and a few more small items which it is unnecessary to take into consideration in an elementary work like the present one.

THE END.

APPENDIX.

NOTE A.

Salaries of Officers.

It may not be uninteresting to state here the amount of salaries paid to the higher Officers of Government. The following list may contain some trifling errors, but none of any importance for the object in view, which is merely to give a general idea of the subject.

CIVIL OFFICERS.

	Rs.
A Darogha has per mensem,	25
A Collector's Treasurer,	40 or 50
A Sheristadar from 40 to	100
A Moonsiff* from 100 to	150
A Deputy Collector† under Reg IX. of 1833 from 250 to	650
A Sudder Ameen,	250
A Principal Sudder Ameen from 400 to	600
A Covenanted Assistant from 400 to	700
A Joint Magistrate, or Magistrate, from 700 to	1,500
A Collector in the Lower Provinces,	1,916
A Collector in the Upper Provinces (where he is both Collector and Magistrate,)	2,250
A Judge,	2,500
A Commissioner, (including travelling allowances) about,	3,200
A Secretary to the Bengal or Agra Government,	3,000

* The salaries of Uncovenanted Officers are stated independently of the allowance made to them for their establishments.

† In the Upper Provinces some Deputy Collectors receive 700 Rupees per mensem (including 50 Rupees for office allowance), but in Bengal and Behar I believe none get more than 500 Rupees a month altogether.

A Resident at a foreign Court, from 2 to	Rs. 5,000
A Member of the Sudder Board or Sudder Dewanny Adawlut,	4,350
The Private Secretary of the Governor General,	3,000
A Secretary to the General Government,	4,350
A Member of Council,	8,360
Lieut. Governor of Agra,	10,450
Governor General,	20,900

MILITARY OFFICERS.

	Rs.
A Jumadar of Sepoys, receives *per mensem*,	24
A Subadar,	67
A Subadar Major,*	92
An Ensign,†	202
A Lieutenant,	256
A Captain,	415
A Major,	759
A Lieutenant Colonel,	1,002
A Colonel,	1,265
A Brigadier,	2,500, or 3,000
A General of Division probably,	4 or 5,000
The Commander-in-Chief is said to receive per mensem,	15,000

NOTE B.‡

Assessment.

In the assessment of a village, the object is first to determine its Value, or Rent assets, as the case may be, and then to divide this equitably between the Government and the Zemindar.

* A native officer who is of the 1st order of merit receives 2 Rupees additional salary per diem, and if of the 2nd order of merit 1 Rupee.

† The allowances here stated are independent of commands of Companies, Corps, &c. The command of a Company is worth 50 Rupees a month, that of a Regiment 400 Rupees. The allowances of Cavalry Officers are about one-third higher than those of the Officers of Infantry quoted in the above list.

‡ Kindly communicated by a Settlement Officer.

By the *value*, is meant its average productiveness, and capabilities in soil and irrigation, valued with reference to state of markets, demand for land, wealth of cultivators, &c ; by *Rent assets* the sum total of the Rents paid to the Zemindar by his ryots and other cultivators.

The proportion in which the Rent assets, or what is the same thing, the remainder of the Gross produce after deducting the expense and labor of cultivation, is divided between the Zemindar and the Government, is, to the former 30 or $33\frac{1}{3}$, and to the latter 70 or $66\frac{2}{3}$: the latter which is equivalent to $\frac{1}{3}$ and $\frac{2}{3}$ is the most proper and equitable division.

The difficulty of assessment lies in accurately ascertaining the value, or the Rent assets.

In a part of the country where there are very few or no Zemindarry tenures, but only Bhyachara or Putteedarree ones—in which, as we have above seen, the sharers each pay their share of the Government Revenue—Rent either exists not,* or is so rare as to be useless as a standard of assessment, in these cases therefore the assessing Officer must endeavour to ascertain the value of the estate, and as the value varies extremely in every part of the country, according to the habits of the people and supply of grain, &c. &c. so the ascertainment of the real value is a matter of great difficulty, and fails much oftener than where a comparison with the Rent assets is obtainable.

In parts of the country where the Zemindarry and Ryottee tenure are prevalent, could the Settlement Officer always obtain the Zemindars real Jumabundy or Rent Roll, he might, so far as assessment purposes, dispense with the measurement and fixation of rates, for he would only have to deduct one-third from the Rent Roll of an average season to obtain a fair Government Jummah.

But as the Zemindars usually take great pains to conceal their real

* That is, no rent is *paid*, the partners in the estate being themselves cultivators of their shares.

Rent Rolls, and falsify as much as possible those which they deliver to the Collector, correct Jummabundies can be obtained only for a few villages.

The proper course therefore for a Settlement Officer to pursue, is first to pay the strictest attention to the measurement of the tract of country to be assessed, and the due classification of its soil and irrigation. He then notes those villages in which the assessment has from past experience proved fair, and takes the rate of the Jummahs of such villages upon their area cultivated and capable of cultivation as a standard in some degree applicable to the rest. These rates he again subdivides upon each kind of soil to the best of his judgment. For instance, if the general rate upon cultivated and culturable land per beegah were 2 Rupees, and that cultivated land had been divided by the measurement into three classes, viz. *Irrigated land*, 1st class *Unirrigated*, and 2d class also Unirrigated, of which there were found to be the following proportions, the total area cultivated and culturable being 600 Acres.

Cultivated,	Irrigated,	200
	1st Class unirrigated,	100
	2nd ditto ditto,	200
	Culturable,	100

If we suppose the general rates distributed as follows:

Culturable at 1 Rupee 100 acres,	100
Cultivated irrigated at 3-4 Rupees, 200 ditto,	650
Ditto unirrigated 1st Class, at 2 Rupees, 100 ditto,	200
Ditto ditto 2nd ditto at 1-4, 200,	250
Total Jumma,	1,200

This result and these rates he again would test by the general Rent Roll of the village, if a Zemindarry one and if deserving of confidence, and by the Rent Rates which he ascertains, from personal enquiry and from correct Patwarry's accounts, to prevail upon each denomination of land.

Having applied these Rates to the cases of individual villages, and

to the Totals of Pergunnahs, and corrected and revised them until they approximate as nearly as possible to the truth, he then proceeds to calculate the assessment of each village accordingly.

The greatest attention of the settlement Officer is required, in fixing these Rates, to the total assessment which a Pergunnah or District shall bear, one or two annas a beegah making the difference of thousands of Rupees in the aggregate, and the natural bias of his mind leading almost every Officer to err on the side of excess.

It must after all be remembered that the calculation obtained by the application of the assumed revenue rates, is merely an approximation to the truth, a general average standard, which, if there be nothing peculiar in the circumstances of a village, the assessing Officer will adopt, but from which he will depart, where such peculiarities are found to exist, according to the dictates of his own judgment.

Proximity to a large City, or Mart, where produce is in high demand, extraordinary fertility of soil, or great superiority in the means of irrigation, well known industry, thrift and skill in cultivation on the part of the inhabitants, are circumstances which cannot be sufficiently provided for by general rates, whereas the reverse, a scarcity of cultivators, &c. must similarly be allowed to operate to reduce the government demand below what a mere calculation by average rates would produce.

Under the system enacted by Regulation VII. of 1822, the most detailed investigations were undertaken to ascertain the real average produce of each village, and not unfrequently of each field. But these details failed altogether in their object, not only because it was found that a system of such minute enquiry would require centuries to complete the settlement of the N. W. Provinces, but also because the result was almost always faulty, being in 99 cases out of 100 too high. It is true, yet difficult perhaps sufficiently to account for, that an Officer will always in such cases make his averages too high. He will pass over a bad field, and fix on one better than the average, although actuated by a sincere wish to do equal justice to the Government and the Landholder.

NOTE C.

The celebrated settlement made in the time of Akber under the superintendence of Rajah Todar Mull, is thus explained from the Ayeen Akbery in Mr. Elphinstone's History of India:

"The objects of it were: 1. To obtain a correct measurement of the land. 2. To ascertain the amount of the produce of each beegah of land, and to fix the proportion of that amount that each ought to pay to the Government. 3. To settle an equivalent for the proportion so fixed, in money."

1. "For the first purpose Akber established an uniform standard to supersede the various measures formerly employed even by public officers. He also improved the instruments of mensuration, and he then deputed persons to make a complete measurement of all the lands capable of cultivation within the empire."

2. "The assessment was not so simple as the measurement. The land was divided into three classes, according to its fertility; the amount of each sort of produce that a beegah of each class would yield was ascertained: the average of the three was assumed as the produce of a beegah, and one-third of that produce formed the Government demand. But this assessment seems to have been only designed to fix a maximum; for every cultivator who thought the amount claimed too high, might insist on an actual measurement and division of the crop."

"As lands of equal fertility might be differently circumstanced in other respects, the following classification was formed for modifying that first mentioned: 1. Land which never required a fallow paid the full demand every harvest. 2. Land which required fallows, only paid when under cultivation. 3. Land which had suffered from inundation, &c., or which had been three years out of cultivation and required some expense to reclaim it, paid only two-fifths for the first year, but went on increasing till the fifth year, when it paid the full demand. 4. Land which had been more than five years out

of cultivation enjoyed still more favourable terms for the first four years."

"It is not explained in the Ayeen Akbery how the comparative fertility of fields was ascertained. It is probable that the three classes were formed for each village, in consultation with the inhabitants, and the process would be greatly facilitated by another classification made by the villagers for their own use, which seems to have subsisted from time immemorial. By that distribution, all the land of every village is divided into a great many classes, according to its qualities; as black mould, red mould, gravelly, sandy, black mould mixed with stones, &c. Other circumstances are also considered, such as command of water, vicinity to the village, &c.; and great pains are taken so to apportion the different descriptions among the cultivators as to give equal advantages to all."

3. "The quantity of produce due to the Government being settled, it was next to be commuted for a money payment. For this purpose, statements of prices current for the nineteen years preceding the survey were called for from every town and village; and the produce was turned into money according to the average of the rates shown in those statements. The commutation was occasionally considered, with reference to the actual market price; and every husbandman was allowed to pay in kind if he thought the money rate was fixed too high."

"All these settlements were at first made annually; but their continual recurrence being found to be vexatious, the settlement was afterwards made for ten years, on an average of the payments of the preceding ten."

"The prolongation of the term mitigated another evil inherent in the system; for, as the assessment varied with the sort of cultivation, it had all the effect of a tithe in indisposing the husbandman to cultivate a richer description of produce, which, though it might yield a greater profit, would have a higher tax to pay at the next settlement."

"The above measurements and classifications were all carefully recorded; the distribution of land, and increase or diminution of revenue, were all yearly entered into the village registers agreeably to them; and they still continue in use, even in parts of India which had not been conquered in Akber's time, and where their own merits have since introduced them."

"At the same time when Akber made these improvements respecting the land tax, he abolished a vast number of vexatious taxes and fees to officers."

"The result of these measures was, to reduce the amount of the public demand considerably, but to diminish the defalcation in realising it; so that the profit to the state remained nearly the same, while the pressure on individuals was much lessened. Abul Fazl even asserts that the assessment was lighter than that of Shere Shah, although he professed to take only one-fourth of the produce, while Akber took one-third. Akber's instructions to his revenue officers have come down to us, and show his anxiety for the liberal administration of his system, and for the ease and comfort of his subjects. Some particulars of his mode of management also appear in those instructions. There is no farming of any branch of the revenue, and the Collectors are enjoined, in their agreements and collections, to deal directly with individual cultivators, and not to depend implicitly on the headman and accountant of the village."

From the above it appears that Akber's settlement, and the settlement of the English Government, were in several respects similar in principle although in other respects very different. Both were grounded:

1st. On an actual measurement of the land; 2udly. on the capability of each description of land; 3rdly. the share claimed by the Government, in both instances, appears to have been about the same in fact though nominally different.* On the other hand, 1st. Akber's

* Akber's assessment amounted to *one* third of the *cultivator's* gross produce, that of the English Government is fixed at *two* thirds (65 to 70

settlement was a Ryotwar settlement liable to all the objections which apply to such a mode of assessing the revenue. 2ndly. The assessment, being laid on the *gross* instead of on the *net* produce of the land, fell most heavily on lands of inferior quality, in which the expense of cultivation bears a much larger proportion to the gross produce than in superior lands. The principle of that assessment was in fact the same as that of tithes, and directly tended to prevent all improvement in the cultivation of the land; 3rdly. the assessment being only for ten years, and at the end of that period the rate to be paid being fixed for the future on the average of the past payments, little or no inducement was left to improve the lands, all improvements being after ten years followed by an increased taxation. The settlement of the Lower Provinces and of Benares appear to be free from every one of the above objections, the last of which, however, applies to the assessment of the Upper Provinces so long as it is not made permanent.

NOTE D.

The objections of the Chinese Government to the importation of Opium, are that the use, or rather abuse, of that drug, corrupts the habits of the people, and that Opium being paid for to the importers in silver, this trade tends to get the whole of the silver out of the country.

The first objection, is apparently well founded, and it does not seem possible to doubt that on the whole the importation of Opium

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per cent.) of the *Landlord's* share, which probably in the average may be estimated in this country at about one-half of the gross produce of the land. The equal division of that produce between the Zemindar and Ryot, in lieu of a pecuniary rent, is a common arrangement in many parts of the country. The amount of the revenue in the time of Shah Jehan, successor to Akber, is estimated at 23 and 32 Crores by different writers. The mean of the two sums, compared with the revenue realised by the Anglo Indian Government, allowing for the difference between the possessions of Shah Jehan and those of the East India Company, tends to confirm the conclusion that the burden of taxation in the most flourishing times of the Mogul monarchy must have been about the same as it is now.

into China does more harm than good. However, it is not equally evident, that the evil is to be prevented by legal prohibitions, which the Government of China appears to be impotent properly to enforce.

The second objection relating to the draining off the country of its silver, is in great measure the result of the ignorance of the Chinese in Political Economy. The exportation of the precious metals in large quantities may certainly produce very great inconvenience, but that inconvenience can only be temporary. Each country requires a certain quantity of precious metals for its transactions; if the quantity in use for that purpose, is diminished by exportation, the value of the remaining portion is increased and goes on increasing, until gold and silver have become so dear, that is, all the other commodities are comparatively so cheap, that instead of the exportation being continued indefinitely it is soon followed again by importation.

Objections of more importance to India than the above have been made in England to the Opium trade. They have often been all jumbled together and thus have given rise to a great deal of declamation on both sides without the possibility of arriving at a correct conclusion. The objections alluded to resolve themselves into these:

1st. "The exportation of Opium from India to China, either by corrupting the morals of the Chinese and checking their industry, or by exhausting their means to purchase other commodities, disables them from buying as much of British goods as they were in the habit of doing. This is proved by the importation of Opium in China having increased, while the importation of British goods in that country has decreased."

The simultaneous occurrence of the two facts here stated, increase of the importation of Opium and decrease of the importation of British goods, appears well established, though it may be doubted, whether one be the consequence of the other, but at all events it does not clearly appear that this should be considered a valid reason altogether to forbid the cultivation of Opium in India, or at least the exportation of that drug from any Indian port to any country to the

Eastward. It is evident, however, that nothing short of this would meet the objection (if even this did so). The urging of such an objection thus does not merely imply, as is sometimes supposed, that the Government of India should cease to be directly concerned in the cultivation of Opium, (since this would have no tendency to diminish the extent of the trade) but that the people of India should be for the benefit of English manufacturers, deprived of a source of wealth yielding to Government a revenue of about a million a year.

2nd. "It is extremely unbecoming in a *Christian*, and immoral in any Government, to be themselves the great producers of a deleterious drug, the greatest quantity of which they know perfectly well to be the object of an unlawful and nefarious trade between their own subjects and those of a friendly power, and to be highly injurious to the moral habits of the latter."

There is in this objection, a singular confusion of ideas. It is very true in a political point of view, that the direct concern of the Anglo Indian Government with the cultivation of Opium is not free from objection. It may not be easy for the Emperor of China, when issuing his energetic proclamations against the importation of Opium, to conceive that he has no fair ground of complaint against the English Government, and particularly against the Government of India, when he hears of thousands of Chests of Opium belonging to that Government, produced and publicly advertized for sale by them, and all this with the full knowledge that most, if not the whole, of those Chests will be exported to China. But it is singular that so much obloquy should have been thrown on the Government by so many respectable and well informed persons who should have understood the question better than the Chinese can do. It is obvious to any one, who will take the trouble to reflect on the subject, that the nefariousness of the trade, or the corruption of the Chinese by Opium, is in no degree imputable to the connection of the Anglo Indian Government with Opium, since if the cultivation of the poppy were as free as that of the sugar cane, or as that of the tobacco leaf, the production of Opium would not be less in quantity than it is. The question of morality or humanity, has therefore little or nothing to do

with the mode in which the Government thinks it most expedient to levy an Opium revenue. The question is not even between the levying or non levying of a revenue from Opium, but between allowing the cultivation of the poppy in any shape or prohibiting it altogether.

3rd. "Opium is a deleterious and demoralizing drug, both for the Chinese and the natives of India. The use of that fearful poison appears even to spread in Great Britain, and the cultivation of the plant which produces it should either be altogether put a stop to, or at least be carried on in such a way, that a sufficient quantity of the drug may be produced for medical purposes, and none for purposes of intoxication."

This question is much wider than the others. It is no less than that of a Government assuming to itself the responsibility of determining how much of a certain commodity is required for the use of the world at large, and deciding that any thing beyond that quantity would be abused. This, no civilized state has attempted to do in modern times. The manufacture of Gin, Brandy, Whisky, and other spirits, has not, in the most civilized Countries of Europe, been prohibited, or attempted to be checked except by the imposition of duties, and the monopoly of Opium in India amounts to a duty of more than three hundred per cent.

But, besides, the demoralizing influence of Opium in India has been so grossly exaggerated, that some doubts may be entertained as to the extent of injury which has been done by the use of that drug to the Chinese. Few men who have resided in the Opium districts of Behar, would venture to assert that Opium is there as extensively injurious as the use of spirits is among the lower classes in Great Britain. Comparatively to the number of those who do not use it at all, or of those who use it in moderate quantities, the number of those who abuse it is extremely small. Throughout Behar a man given to the use of Opium, is a marked man, more so even than a drunkard is in Europe. Besides, the use of Opium in Behar for intoxicating purposes, is an evil which, of course, no Government prohibition could prevent, or even materially check.

With regard to China, it appears, however, allowing for all exaggerations, that the importation of Opium in that country, does on the whole more harm than good. But is this a reason why the production of Opium *in India* should be put a stop to? Apparently not. An abusive consumption of a commodity by one people, can hardly be considered as an argument against the production of that commodity by another nation. It would appear a singular mode of reasoning to say, that, because thousands of people in Europe get intoxicated with the Wines and Brandies of France, *therefore* France should put a stop to the cultivation of the vine.

4th. A last objection which perhaps might possibly be made with regard to Opium, would be that the Government "should allow no Opium to be exported to the Eastward." But it is obvious such a prohibition would be easily evaded, and that, besides, as Opium is produced in other countries, Turkey for instance, this would only be throwing the trade into other hands, and depriving the people of India of the benefits derived from it, without any corresponding benefit to the Chinese.

As a question of pure morality, admitting it to be proved that the importation of Opium into China, is productive on the whole of extensive injury to the Chinese, a private individual is not justified in making himself the instrument of that importation; but there is a great difference between this and a Government enacting a prohibition which it could not enforce, which in the attempt to carry it into effect would create a great deal of annoyance, give occasion to a great deal of falsehood and deceit, and, which ultimately, even if fully enforced, would not have the effect for which it was enacted. It would be better that the exportation to China, should not take place, just as it would be desirable that no spirituous liquors should be exported to some countries, where they are an instrument of extensive injury, but in neither instance does it appear that the rulers of the countries where that Opium and those liquors are produced, can properly be called upon to prohibit that production.

On the whole it is perhaps desirable that the direct connection of

the Anglo-Indian Government with the cultivation of Opium, should cease, as it is not in itself very dignified, exposes them to great obloquy, and appears to have no commensurate advantage, since the same amount of revenue might probably be levied by an export duty, or by a direct tax on Opium cultivation. But it is an error to suppose that this would tend to produce a decrease in the exportation of Opium, and an increase in the sale of British goods, or that the consumers of Opium in China would be at all the better for it. The Indian Government can do nothing to protect them against their own passions, since even a wholesale prohibition of the cultivation of Opium in India, would not prevent other nations to supply them with their beloved drug. It is true that, in the latter case, Indian cultivators would no longer have, in the poisoning of the Chinese, the share they may now be said to have; but this is hardly worth such an extraordinary measure of domestic policy, considering that, morally speaking, their share in the guilt is not greater, than that of the manufacturer of the gunpowder with which Fieschi intended to shoot the King of the French, in the crime of that atrocious attempt. In point of fact, not one in a hundred of the native producers of Opium knows what becomes of their Opium after they have delivered it to the Government.

THE END.

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ERRATA AND NOTES.

Page 12, Line 18 & 30, *after the words* "Talookdaree" *and* "Talookdar" there ought to be a mark referring to a note at the bottom of the page stating: The words "Talookdaree" *or* "Talookdar" do not necessarily imply *permanency* of tenure, but are sometimes used for "Farm" *and* "Farmer"

„ 14, „ 11, *instead of* "Pykasht" *or* "Ghyr Maroossee Ryot," *read* "Pykasht† or non-resident, Ghuer Maroossee or non-hereditary Ryot."

„ 14, Add this para. to the Note.

In Putteedaree estates, where the Malicks or Proprietors are numerous, each has his own separate piece of ground which he cultivates, and which is called his *Khoodkasht* (*i. e.* literally self-cultivated).

„ 18, „ 15, *after* "Cl. 2," *read* "vide also Reg. VII. 1799, and Act VIII. of 1835, Sect. 1, ×" and with reference to the mark ×, there ought to be a note at the bottom of the page stating:

Such tenures are not saleable for arrears without a previous summary decree, unless situated in estates under *khas* (that is, Govern-

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* Most of the Notes here inserted have been kindly communicated by Revenue-Officers, since the work was printed.

† The Pykasht Ryot lives in one village and cultivates lands in another. He may be a Khoodkasht Ryot in the former village at the same time that he is a Pykasht in the latter.

ment) management. In Behar, under-tenures in *resumed** lackheraj estates are called "Shikmee" tenures. The Shikmee holders have received from Government separate Pottahs at a rate equal to half the gross produce of their tenure, and that amount is payable by them to the Zemindar within whose settlement they are included. These tenures consist generally of lands given in charity by the Lackherajdars, under the various denominations of *Birt*, *Neaz Durgah*, &c.

Malickanah lands constitute another kind of dependant Talook in Behar. Where the Malick, or original proprietor, of a resumed Lackheraj estate, was in possession of certain lands in that estate in lieu of Malickana, he was allowed the option of remaining in possession on an *istemraree* Pottah, the assessed jummah of which he agreed to pay to the Lackherajdar with whom the settlement of the whole estate was concluded. The Malickanah allowance was made payable to the former from the Government Treasury, the Government and the Lackherajdar contributing to that payment in the proportion of their respective shares on the jumma of the estate. S. B. L. P. C. O. 23d October, 1838, No. 338, and 21st August, 1839, No. 22.

Chowkedaree and Canongoe lands, that is, lands formerly granted to Chowkeydars and Canoongoes in lieu of pay, and Invalid Jagheers, or Jagheers granted to Invalid Sepoys, are also different kinds of dependent Talooks. Those lands have in general been resumed, and are now held by the heirs of the former possessors on istemraree Pottahs, the jummah of which is payable to the Zemindar in whose estate the lands are situated.

Page 19, Line 1, N. B. Putnee Talooks are peculiar to Bengal Proper.

„ 22, „ 33, *after* Section 35. Note at the bottom of the page. "This Regulation applies only to Benares. There is apparently no similar legal provision for Behar and the Lower Provinces, unless it be considered that, as under Reg. XI. 1825, Cl. 3, (page 22), the Government claims the

* An estate is said to be *resumed* when the right to hold it free of rent to Government is declared invalid, and it is consequently *assessed*, or at all events liable to assessment.

right of assessing, a new accretion it must admit the right of a Zemindar to claim an abatement of jumma for a loss of land under similar circumstances."

Page 24, Note in reference to the term "Mocuddum" in Line 11. "In Behar the Head Ryots of a Village are called Mahtons or Jeyt Ryots, in the Dekhan Patels, and in Bengal Munduls."

„ „ Note in reference to the words, "whole community" in line 24. "In Cuttack Mookudmee Tenures constitute property which is hereditary and transferable. In Behar some lands are Mookudmee. They were probably held by the Mookuddum, Rent-free, as his perquisite. For Mookuddum Tenures in Bhaugulpore, vide Harrington's Analysis Vol. 3rd, page 391 to 395.

„ 26, *after the word* "life" in line 15, place in a Note at the bottom of the page: "When the possessor, of a free tenure was himself the original proprietor and the tenure was resumed, the settlement was made with him; but when the Lackherajdar held another man's lands under a free tenure, and had not been sixty years in possession, the settlement was made with the Malick, or Proprietor. In this case the Lackherajdar would have been left destitute, if no pension had been allowed him. When the settlement was made with the Lackherajdar, the Malick had the value of his Malickanah paid up to him by the Government.

„ 26, Ayma and Jagheer tenures are, like Altumgha and Mududmash, Badshaee Grants; and all the tenures enumerated in page 27, *except* "Towfeers," are Hookamee. The latter are also called *minhye* tenures.

„ 26 & 27, The remarks made in these two pages on the different Lackheraj Tenures, relate to those tenures generally under the Mahomedan Government. A Jagheer or Ayma Tenure may be *transferable* by the special terms of the grant, or by a subsequent order from a competent authority. All permanent Grants for *private* purposes un

held by the British Government are transferable, and those for *public* purposes are under the control of Local Agents.

Page 31, 2nd para. Note: The province of Cuttack is not permanently settled.

„ 33, Line 22, *dele the last* "to" *in this line.*

„ 35, „ 12, "of" *read* "for."

„ 38, „ 1, *after* "empowered" *read* (under Act I. of 1839.)

„ 60, „ 27, *after* "Government" *read* "for their."

„ 61, Strike off the marginal heading below line 29th.

„ 68, „ 14, *instead of* "Allahabad" *read* "Agra."

„ 70, „ 28, Invalid Jagheers, see Errata of page 18.

„ 71, „ 4, Note. "Under the new rules of practice (27th June 1842,) Commissioners of Revenue in the Lower Provinces are competent to sanction all settlements, subject to an appeal to the Board."

„ 72, „ 16, *after* "Commissioner" *read* "in confirmation of a Collector's award."

„ „ „ „ *after* "final" *read* "but if the Commissioner's decree be contrary to that of the Collector, it must be submitted to a second Commissioner, and should the latter disagree with the first, the case should go to a third Commissioner. The concurrent voices of two Commissioners shall constitute a final decision, except, &c."

„ „ „ 18, *after* "Cl. 5" *read* "and 6."

„ 78, In the Lower Provinces the office of Canoongoe has been generally discontinued except in Cuttack.

„ 80, „ 5, *instead of* "were" *read* "was."

„ 83, „ 16, *in marginal note strike off* "duties of the."

„ 85, „ 8, *after* "inheritance" *read* "duly notified to the Collector for the information of the Court of Wards."

Page 85, Line 10 & 11, *instead of* "Reg. VI. 1822, Sect. 4," *read* "Act XII. 1841, Section 10."

„ 93, „ 11, *instead of* "momentary" *read* "temporary."

„ 94, „ 26, *instead of* "momentary" *read* "temporary."

„ 99, „ 22, *after* "plaint in" *read* "regular."

„ 120, „ 10, *instead of* "applicable" *read* "appealable."

„ 135, „ 3, *after* "objectionable" *there ought to be a mark referring to a note at the bottom of the page stating:* "The worst part of it is that which is levied on the circulation of Newspapers, Periodicals and Books, as in that shape it is a tax on the diffusion of knowledge."

„ 135, „ 14, *instead of* "whom" *read* "which."

„ 136, STEAM AND SHIP POSTAGE.—Letters going to Europe by the Steamers, if not exceeding ½ ounce avoirdupois (Troy grains 218¾)

	Rs.	As.	P.
are liable to the postage of	0	8	0
if not exceeding 1 ounce*	1	0	0
„ 2 „	2	0	0
„ 3 „	3	0	0
„ 4 „	4	0	0

The above steam postage *may* be pre-paid in India on letters going to England viâ Southampton, but not on those going viâ Marseilles. This pre-payment *must* be made on letters going by the Overland Mail to foreign Countries.—*Agra Government Gazette, 5th March*, 1844.

N. B.—A parcel can be sent through the Indian Post Office only as far as Alexandria.

Page 138, Line 24, *instead of* "Act XII." *read* "Act XX."

„ 145 & 147, *instead of* "Customs" in the heading of the page, *read* "Miscellaneous Revenue."

„ 150, Line 24, *instead of* "tenure" *read* "tenures."

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* The weight of one rupee and one copper pie is equal to 213⅓ grains, or nearly half an ounce, and that of two half anna pieces and one pie to 433⅓ grains, or very nearly one ounce avoirdupois.

Page 151, *after* L. 17, The word "cultivated" ought to be made to refer only to the three first classes of soil, viz. irrigated, 1st class unirrigated, 2nd class ditto.

„ 157, Line 29, *after* "doubted" *dele* ,

„ „ „ 32, *after* "or" *read* "to prevent."

Omition in Index besides the subjects noticed in the Errata and Notes.

Nizamut lands—Lands paying, or liable to pay, Malgoozaree to Government—*i. e.* not *free*-tenures.